FRANK PALLONE, JR., NEW JERSEY
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ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

September 16, 2019

Henry R. Kravis
George R. Roberts
Co-Chairmen and Co-Chief Executive Officers
KKR & Co. Inc
9 West 57th Street, Suite 4200
New York, NY 10019

Dear Mr. Kravis and Mr. Roberts:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is investigating practices surrounding surprise billing. We write to request information regarding KKR & Co. Inc's ownership, policies, and practices as it relates to third-party medical providers. We are particularly interested in your firm's relationship with any physician staffing companies and emergency transport companies. In recent years, the Committee has heard countless heart-wrenching stories from individuals who have received thousands of dollars in medical bills after inadvertently receiving care from out-of-network providers. These surprise medical bills have led to patient confusion and financial hardship, and have inspired the Committee to act through bipartisan legislation.

Over the past year, the Committee has taken several bipartisan steps to hold patients harmless in situations where they, through no fault of their own, receive a surprise bill from an out-of-network health care provider. On July 17, 2019, we demonstrated this commitment by unanimously passing the No Surprises Act out of the full Committee.[1] Among other things, our bill protects consumers with all types of private insurance plans from surprise bills by increasing transparency and empowering patient choice, establishing benchmarks to resolve out-of-network billing disputes, creating an independent dispute resolution process, and encouraging the development of an all-payer claims database.[2]

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[1] H. Comm. on Energy and Commerce, *Pallone & Walden on Committee Passage of No Surprises Act* (Jul. 17, 2019), *available at* energycommerce.house.gov/newsroom/press-releases/pallone-walden-on-committee-passage-of-no-surprises-act.

[2] *Id.*

Surprise billing has devastated the finances of households across America and this practice is increasing at an alarming rate.[3] Every day we hear stories about families who have endured financial and emotional devastation as a result of surprise bills. For example, Sonji Wilkes carefully confirmed before giving birth that the hospital where she delivered her son was covered by her insurance plan. Yet, after her son required emergency care in the hospital's neonatal intensive care unit (NICU) shortly after birth, she received a $50,000 surprise bill for his NICU stay. Unbeknown to Ms. Wilkes, the hospital had subcontracted the NICU out to a third-party provider that was not part of any insurance company's network.[4] Stefania Kappes-Rocha from California went to the emergency room for a kidney infection at Zuckerberg San Francisco General Hospital. After spending the night in the emergency room and being sent home a day later with ibuprofen, she received a surprise bill for more than $27,000. Drew Calver from Dallas, Texas received emergency treatment at St. David's Medical Center for a heart attack. To Mr. Calver's astonishment, he subsequently received a $108,000 surprise medical bill. Unfortunately, these stories are far too common. Research has found that around one in five emergency department visits and about nine percent of elective inpatient care at in-network facilities result in a surprise bill.[5]

Surprise bills occur primarily in two scenarios—when an individual receives emergency services and therefore has no ability to ensure they are treated by in-network providers, or when an individual goes to an in-network hospital, but certain providers at that same hospital, that the patient may not have been aware would be involved in their care, are out-of-network. According to the American Enterprise Institute and the Brookings Institution, surprise bills are most likely associated with services provided by an out-of-network emergency physician or ancillary clinician—such as a radiologist, anesthesiologist, pathologist, hospitalist, or assistant consulting surgeon—at an in-network facility.[6]

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[3] *No More Surprises: Protecting Patients from Surprise Medical Bills: Hearing Before the Subcomm. On Health of the H. Comm. on Energy and Commerce*, 116th Cong., Testimony of Jeanette Thornton, Senior Vice President, Product, Employer, and Commercial Policy, America's Health Insurance Plans (June 12, 2019).

[4] *No More Surprises: Protecting Patients from Surprise Medical Bills: Hearing Before the Subcomm. On Health of the H. Comm. on Energy and Commerce*, 116th Cong., Testimony of Ms. Sonji Wilkes, Patient Advocate (June 12, 2019).

[5] Christopher Garmon and Benjamin Chartock, *One in Five Inpatient Emergency Department Cases May Lead to Surprise Bills*, HEALTH AFFAIRS (Jan. 2017),www.healthaffairs.org/doi/abs/10.1377/hlthaff.2016.0970.

[6] Loren Adler, et al., *Network matching: An attractive solution to surprise billing*, American Enterprise Institute (May 23, 2019), www.aei.org/publication/network-matching-an-attractive-solution-to-surprise-billing/.

Many of the services that are often associated with surprise bills are also areas where hospitals have increasingly outsourced patient care.[7] This occurs because physician staffing companies and hospitals independently negotiate contracts with insurers—at times, a hospital may have negotiated rates with major health insurers while the physicians associated with the physician staffing company are not part of those networks.[8] Indeed, a study by researchers at Yale found that hospitals that contract with physician staffing companies have higher rates of out-of-network billing.[9]

The researchers analyzed the behavior of the two largest emergency department outsourcing firms in the United States—TeamHealth and EmCare—and found that:

> [B]oth firms use the power of their outside option to raise revenues when they take over new contracts with hospitals, albeit in very different ways. When EmCare enters into a new contract to manage a hospital's [emergency department] services, they immediately exit networks, bill as out-of-network providers, and seek to collect their charges (which they also raise by 96 percent relative to the charges billed by the prior physician group in that hospital). By contrast, when TeamHealth receives a new hospital contract, physicians working for the firm go out-of-network for several months and then rejoin the networks while using the now credible threat of out-of-network status to secure higher in-network payments.[10]

Evidence indicates that these physician staffing firms charge significantly higher in-network rates than their counterparts, thereby driving reimbursement upwards as they enter into staffing

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[7] Press reports discussing areas where hospitals have outsourced clinical services include: *Outsourcing is Exploding in Healthcare – Will the Trend Last?, Becker's Hospital Review* (Oct. 4, 2013), *available at* https://www.beckershospitalreview.com/human-capital-and-risk/outsourcing-is-exploding-in-healthcare-will-the-trend-last.html; Ron Shinkman, *The outsourcing explosion: Hospitals turn to outside firms to provide more clinical services [Special Report]*, FIERCEHEALTHCARE (Apr. 21, 2015), *available at* www.fiercehealthcare.com/finance/outsourcing-explosion-hospitals-turn-to-outside-firms-to-provide-more-clinical-services.

[8] Zack Cooper, et al., *Surprise! Out-of-Network Billing for Emergency Care in the United States*, THE NATIONAL BUREAU OF ECONOMIC RESEARCH WORKING PAPER (last revised Jan. 2019), *available at* www.nber.org/papers/w23623.

[9] *Id.*

[10] *Id.*

arrangements with hospitals.[11] EmCare was acquired by KKR & Co. Inc., in 2018.[12] Similarly, TeamHealth was acquired by the Blackstone Group in 2016.[13]

EmCare and TeamHealth's purchases by private equity firms are not unique events. Press reports indicate that physician staffing companies and other physician groups have been increasingly acquired by private equity firms.[14] We are concerned about the increasing role that private equity firms appear to be playing in physician staffing in our nation's hospitals, and the potential impact these firms are having on our rising healthcare costs. Therefore, as a private equity firm with an ownership interest in at least one physician staffing company, we request your assistance to better understand the impact of private equity ownership of physician staffing companies on surprise billing, the revenue generated by surprise billing, and the current incentives behind the negotiations between providers and insurers.

To assist the Committee in its efforts, we respectfully request you answer the following questions:

1. Please list every physician staffing company that your firm currently has, or previously has ever had, an ownership interest in, including: (1) the acquisition date and cost of the acquisition or ownership interest; (2) the purpose of the acquisition or ownership interest; (3) the sale date (if applicable) and amount received for the sale or ownership interest; and (4) the type of physicians employed by the physician staffing company and size of the physician staffing company.

2. For each physician staffing company that your firm currently has, or previously has had, an ownership interest in, please provide the annualized return on investment for each year that your firm had an ownership interest in the physician staffing company.

    a. How are companies within the firm's portfolio periodically evaluated to assess their financial performance, and on what criteria?

    b. Please provide any and all periodic evaluations of the financial performance of the physician staffing company your firm currently has, or previously has had, an ownership interest in.

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[11] *Id.*

[12] *Id.*

[13] *Id.* at 8.

[14] *See, e.g.*, Jack O'Brien, *Private Equity Purchasing More Physician Practices*, HEALTH LEADERS (Jan. 8, 2019), www.healthleadersmedia.com/finance/private-equity-purchasing-more-physician-practices; Harris Meyer, *Concerns grow as private equity buys up dermatology practices*, MODERN HEALTHCARE (Jul. 24, 2019), www.modernhealthcare.com/finance/concerns-grow-private-equity-buys-up-dermatology-practices.

3. For each physician staffing company that your firm currently has, or previously has had, an ownership interest in, please separately list the revenue that your firm has earned from out-of-network billing by the physician staffing company for each year that your firm had an ownership interest in the physician staffing company. If the annual revenue has increased or decreased, please describe why.

4. For each physician staffing company that your firm currently has, or previously has had, an ownership interest in, please separately list the revenue that your firm has earned from in-network billing by the physician staffing company for each year that your firm had an ownership interest in the physician staffing company. If the annual revenue has increased or decreased, please describe why.

5. Please describe the role your firm plays in the strategy, management, and operations of each physician staffing company that your firm currently has, or previously has had, an ownership interest in. Please include a description of the reporting relationship between your firm and the senior management of each physician staffing company, and a description of any performance-based financial incentives.

6. What role does your firm have in the negotiations between the physician staffing company and insurers? Does your firm have any control or visibility into the negotiation process? If so, please describe. In responding to this question, please also provide information about:

    a. Whether your firm has ever provided recommendations, advice, guidance, or instructions to a physician staffing company on whether to negotiate an in-network agreement with an insurer, and the terms of any in-network agreement, and if so, the recommendations, advice, guidance, or instructions provided to the physician staffing company. Please provide copies of all documents and communications pertaining to any such recommendations, advice, guidance, or instructions.

    b. Whether this role has changed at all during your firm's ownership of any physician staffing company with respect to that physician staffing company.

    c. Whether there are any contracts or contractual terms imposed by your firm on a physician staffing company relating or referring to its negotiations and/or contracts with insurers and/or hospitals. If so, please provide copies of all documents and communications pertaining to such contracts or contractual terms.

7. Please list every emergency transport—such as ground ambulance or air ambulance—company that your firm currently has, or previously has ever had, an ownership interest in, including: (1) the acquisition date and cost of the acquisition; (2) purpose of the

acquisition; (3) the sale date (if applicable) and amount received for the sale; and (4) the size of the company.

8. For each emergency transport—such as ground ambulance or air ambulance—company that your firm currently has, or previously has ever had, an ownership interest in, please separately list the revenue that your firm has earned from out-of-network billing by the company for each year that your firm had an ownership interest in the company. If the annual revenue has increased or decreased, please describe why.

9. For each emergency transport—such as ground ambulance or air ambulance—company that your firm currently has, or previously has ever had, an ownership interest in, please separately list the revenue that your firm has earned from in-network billing by the company for each year that your firm had an ownership interest in the company. If the annual revenue has increased or decreased, please describe why.

We request that you provide the requested documents and information as soon as possible, but no later than September 30, 2019. An attachment to this letter provides additional information about responding to the Committee's request. Additionally, the Committee would like to request a briefing by no later than October 7, 2019, to discuss the documents and information requested.

If you have any questions and to schedule the briefing, please contact Mohammad Aslami with the Majority staff at (202) 225-2927 or Natalie Sohn with the Minority staff at (202) 225-3641. Thank you in advance for your cooperation.

Sincerely,

Frank Pallone, Jr.
Chairman

Greg Walden
Ranking Member

Attachment