



## Health Care ADVISORY ■

**AUGUST 21, 2023**

### How Is Congress Trying to Regulate Private Equity in Health Care?

by [Jane Lucas](#), [Scott Kummer](#), and [Rob Stone](#)

On July 26, 2023, the House Ways and Means Committee held a legislative markup of H.R. 4822, the Health Care Price Transparency Act of 2023, seeking to bring additional price transparency to the health care industry by requiring some entities to publish pricing and other information. During the hearing, a venture capital and private-equity-related disclosure amendment was filed by Bill Pascrell, a long-serving Democrat from New Jersey.

This amendment would require “any specified medical care provider” to file a tax return containing information not normally found on a tax return, including gross receipts received as reimbursement from federal health programs, insurers, or other receivables in connection with providing medical care. A specified medical care provider is a corporation or partnership that is enrolled in Medicare, Medicaid, or, per the text, “in the course of any trade or business which includes the provision of medical care, employs any individual who is so enrolled or certified.” This definition will require some entities owned by venture capital and private equity to comply because they have employees who are enrolled in Medicare or Medicaid. However, in some states, lay corporations cannot directly own or operate providers due to state corporate practice of medicine restrictions. In these states, management services organizations are often used, and it is not clear how these arrangements would be impacted because the language does not clearly contemplate such arrangements.

It would also require reporting information about locations, real estate that is owned or leased, adjusted taxable income, debt, sale of equity interests, and other financial and real-estate-related information of specified medical providers. The Secretary of the Treasury is given the authority to require reporting additional information, and the filed information would be made available to the public as soon as practicable. The failure to correctly file any single return could result in penalties of up to \$1 million.

During consideration of this amendment, the sponsor commented that the “octopus tentacles of private equity” have caused health care prices to increase and resulted in staff layoffs, particularly in nursing homes. He asserts that transparency is necessary to help prevent increasing health care costs. He expressed dismay that the provisions passed by the Energy and Commerce Committee are not in this markup. Bipartisan legislation from May 2023 from the House of Representatives’ Energy and Commerce Committee creates a private equity reporting requirement to the Secretary of Health and Human Services, which is covered in [our earlier advisory](#).

This advisory is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

After discussion, the amendment at the Ways and Means Committee was rejected on party lines. The debate about this amendment can be found starting at the 2:15 mark [here](#), where the committee posts archived hearings.

While the amendment was defeated, the conversation about disclosure is certainly not over. It will resume in the fall after the August recess as the two sides seek to negotiate legislation about health care costs and transparency on the House floor. This legislative action is paralleled by scrutiny in the Senate. On June 1, the Senate Finance Committee held a hearing, "Consolidation and Corporate Ownership in Health Care: Trends and Impacts on Access, Quality, and Costs."

Congress returns to Washington in September, and the outlook for legislation affecting private equity is still not clear. While there is typically bipartisan agreement about increasing transparency in many facets of health care, legislative activity to date indicates there is generally disagreement between Republicans and Democrats about the role private equity should play in health care and whether it has an impact on health care costs.

Entities with ownership that could be affected by this legislation or similar legislation should continue to actively monitor its status and be prepared to address potential impacts to remain in compliance should Congress decide to require additional disclosures about ownership or revenue information.

You can subscribe to future *Health Care* advisories and other Alston & Bird publications by completing our [publications subscription form](#).

If you have any questions, or would like additional information, please contact one of the attorneys in our [Health Care Group](#).

---

# ALSTON & BIRD

---

[WWW.ALSTON.COM](http://WWW.ALSTON.COM)

© ALSTON & BIRD LLP 2023

ATLANTA: One Atlantic Center ■ 1201 West Peachtree Street ■ Atlanta, Georgia, USA, 30309-3424 ■ 404.881.7000 ■ Fax: 404.881.7777  
BEIJING: Hanwei Plaza West Wing ■ Suite 21B2 ■ No. 7 Guanghai Road ■ Chaoyang District ■ Beijing, 100004 CN ■ +86.10.85927500  
BRUSSELS: Rue Guimard 9 et Rue du Commerce 87 ■ 3rd Floor ■ 1000 Brussels ■ Brussels, 1000, BE ■ +32.2.550.3700 ■ Fax: +32.2.550.3719  
CHARLOTTE: 1120 South Tryon Street ■ Suite 300 ■ Charlotte, North Carolina, USA 28203-6818 ■ +1 704 444 1000 ■ Fax: +1 704 444 1111  
DALLAS: Chase Tower ■ 2200 Ross Avenue ■ Suite 2300 ■ Dallas, Texas, USA, 75201 ■ 214.922.3400 ■ Fax: 214.922.3899  
FORT WORTH: Bank of America Tower ■ 301 Commerce ■ Suite 3635 ■ Fort Worth, Texas, USA, 76102 ■ 214.922.3400 ■ Fax: 214.922.3899  
LONDON: LDN:W ■ 6th Floor ■ 3 Noble Street ■ London ■ EC2V 7DE ■ +44 20 8161 4000  
LOS ANGELES: 333 South Hope Street ■ 16th Floor ■ Los Angeles, California, USA, 90071-3004 ■ 213.576.1000 ■ Fax: 213.576.1100  
NEW YORK: 90 Park Avenue ■ 15th Floor ■ New York, New York, USA, 10016-1387 ■ 212.210.9400 ■ Fax: 212.210.9444  
RALEIGH: 555 Fayetteville Street ■ Suite 600 ■ Raleigh, North Carolina, USA, 27601-3034 ■ 919.862.2200 ■ Fax: 919.862.2260  
SAN FRANCISCO: 560 Mission Street ■ Suite 2100 ■ San Francisco, California, USA, 94105-0912 ■ 415.243.1000 ■ Fax: 415.243.1001  
SILICON VALLEY: 755 Page Mill Road ■ Building C - Suite 200 ■ Palo Alto, California, USA 94304-1012 ■ 650.838.2000 ■ Fax: 650.838.2001  
WASHINGTON, DC: The Atlantic Building ■ 950 F Street, NW ■ Washington, DC, USA, 20004-1404 ■ 202.239.3300 ■ Fax: 202.239.3333