FOOD FOR THOUGHT

TAHP

Lowering the Cost of Health Care

December 11, 2024

TAHP
The Texas Association of Health Plans

TAHP Team

Jamie Dudensing
Chief Executive Officer
jdudensing@tahp.org | (512) 450-4909

Blake Hutson
Director of Public Affairs
bhutson@tahp.org | (512) 636-7213

Madison Kieschnick
Director of Policy & Government Affairs
madison@tahp.org

Greer Gregory
Director of Medicaid Policy & Government Affairs
greer@tahp.org | (512) 413-2542

Kevin Stewart
General Counsel
kstewart@tahp.org | (512) 698-8908

Jason Baxter
Director of Government Relations
jbaxter@tahp.org | (512) 497-7104

Patti Doner
Director of Operations
pdoner@tahp.org | (512) 633-3453

Lynn Ramsey
Director of Medicaid Operations
lynn@tahp.org

Mina Chitti
Operations and Policy Associate
mina@tahp.org

FOOD FOR THOUGHT

TAHP

Presented by:

Charles Miller
Director of Health & Economic Mobility Policy
Texas 2036

Annie Spilman
Executive Director
Texans for Affordable Healthcare

Tanner Aliff
Visiting Senior Fellow
Paragon Health Institute

FOOD FOR THOUGHT
TAHP

TEXAS 2036

Transparency, Tiering and Steering, Facility Fees

Charles Miller,
Director of Health & Economic Mobility

charles.miller@texas2036.org

@CharlesTXPolicy

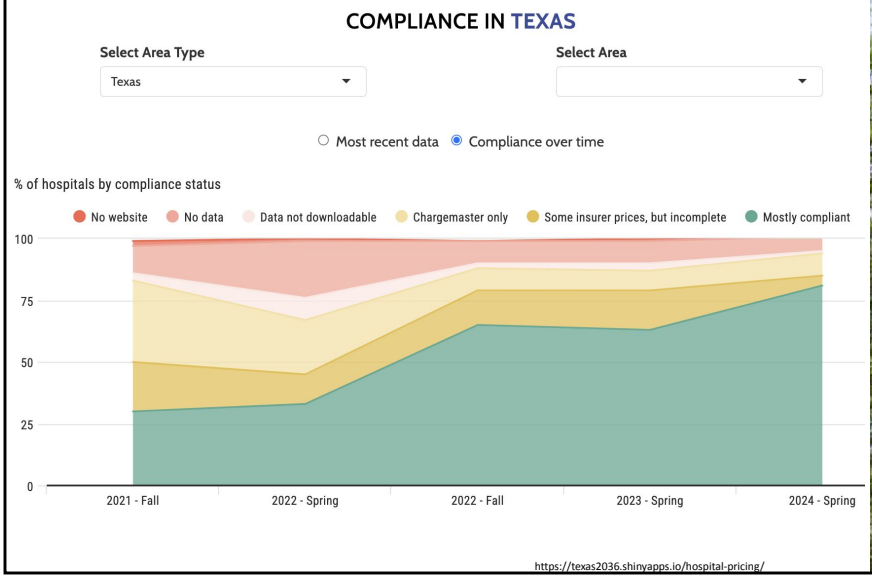
Transparency

Health Care Price Transparency

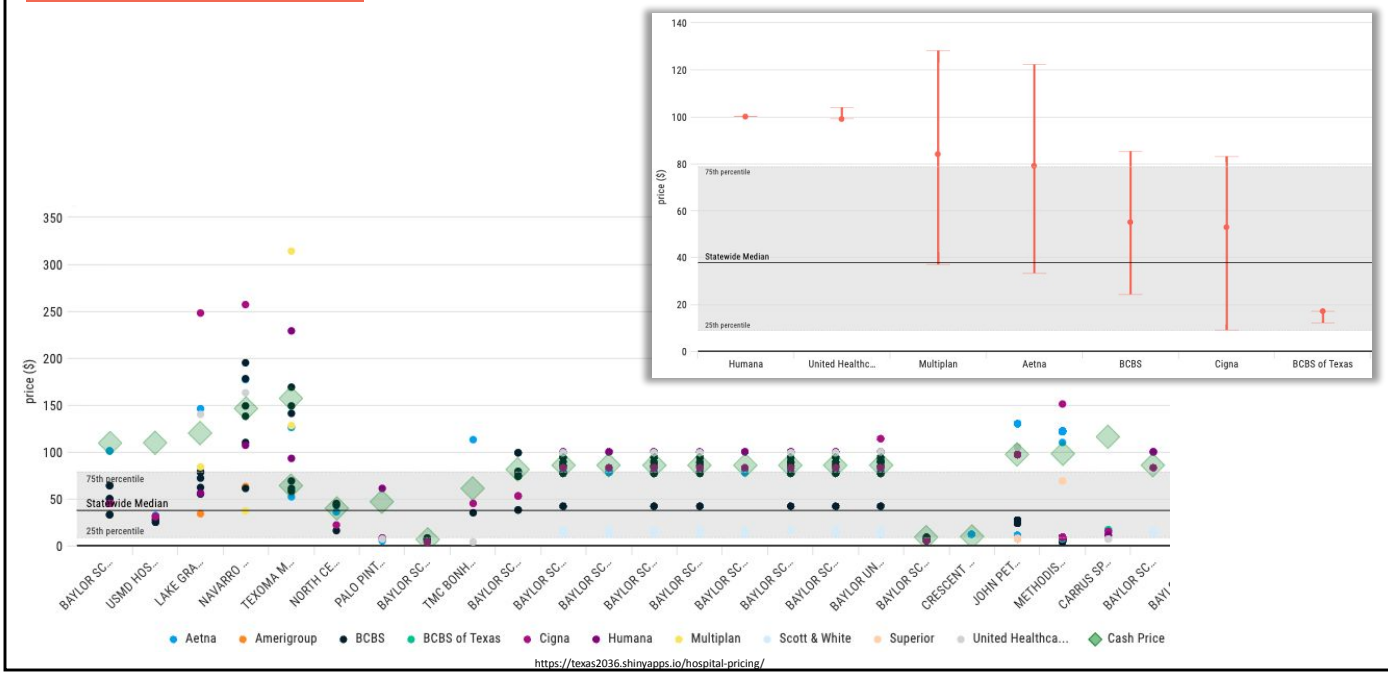
Timeline

Hospital Price Transparency		
1/1/21	Federal Price Transparency Rules Took Effect	Federal
7/19/21	CMS Proposed Increased Penalties for Non-Compliance	Federal
9/1/21	Texas Law (SB 1137) Took Effect	Texas
1/1/22	CMS Rules with Increased Penalty for Non-Compliance Take Effect	Federal
2/26/23	Texas Rules Clarifying the Enhanced Penalties in Texas Statute	Texas
Insurer Price Transparency		
1/1/22	Federal Rules & Texas Law (HB 2090) for Machine-Readable Files Take Effect	Federal & Texas
7/1/22	Federal Rules for Machine-Readable Files delayed enforcement date	Federal
1/1/23	Federal Rules for Consumer Comparison Tool for 500 Services Take Effect	Federal
1/1/24	Federal Rules and Texas Law for All Services Takes Effect	Federal & Texas

Hospital Compliance-TX

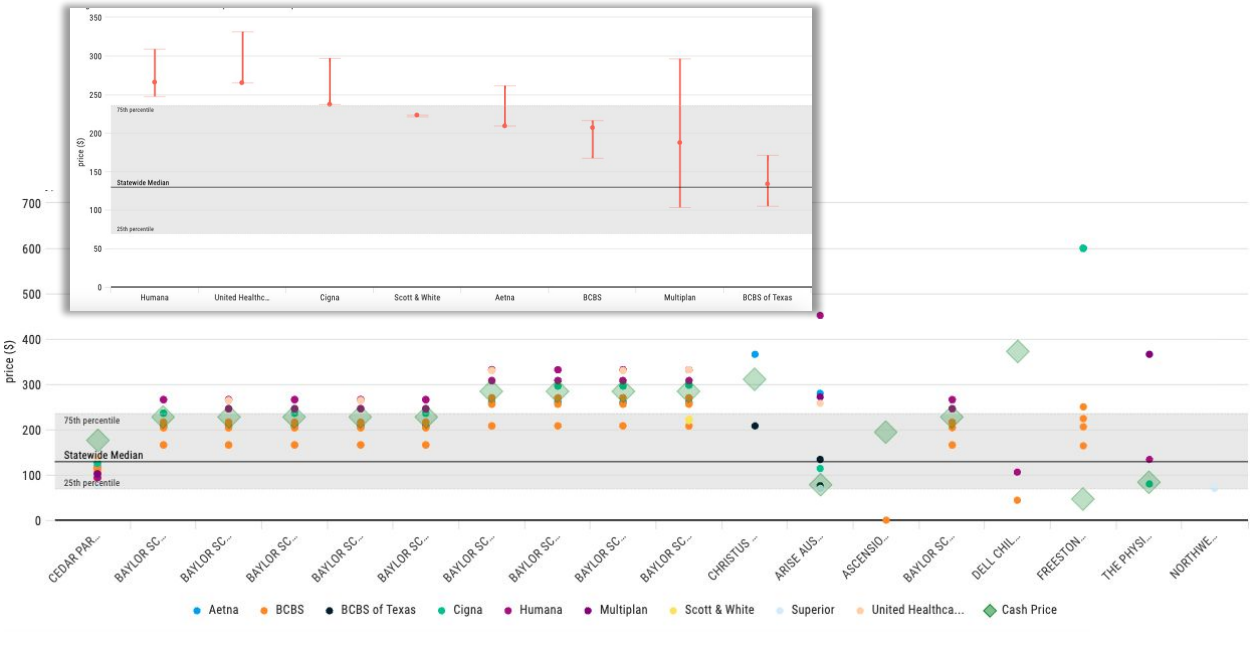


Price Variation – CBC: North Texas



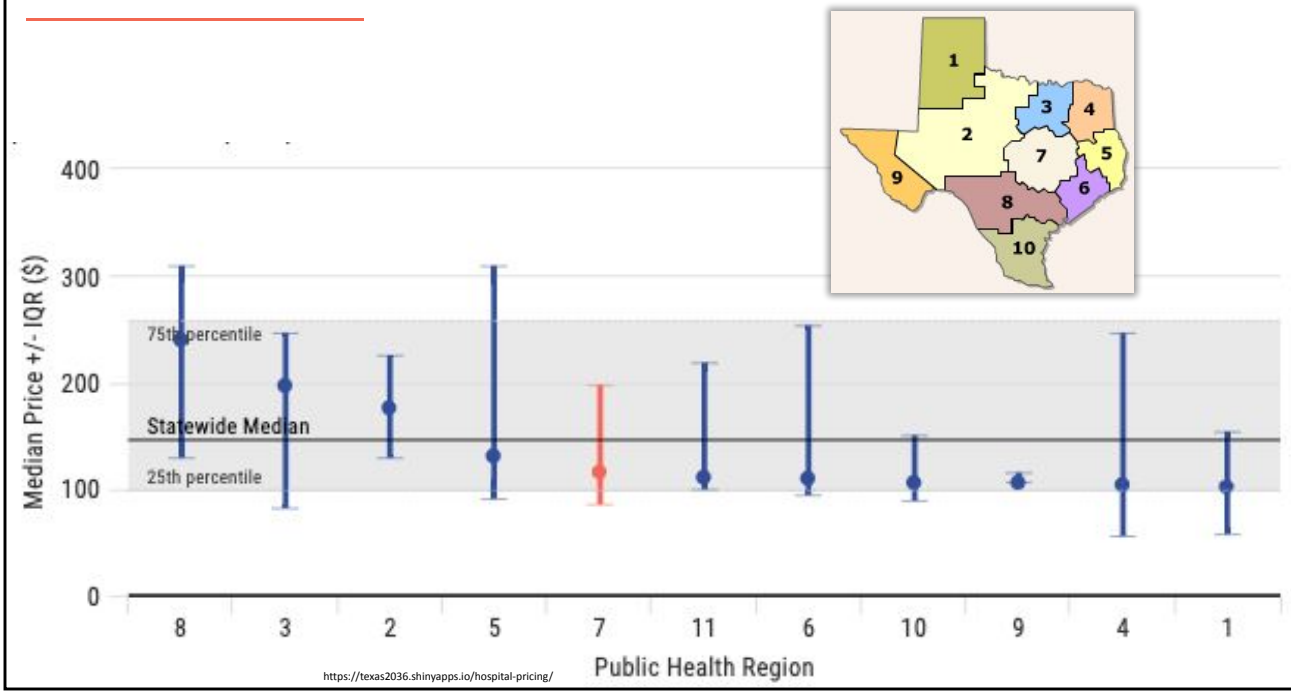
https://texas2036.shinyapps.io/hospital-pricing/

Price Variation – ER Visit Central TX



https://texas2036.shinyapps.io/hospital-pricing/

Regional Price Variation – Office Visit



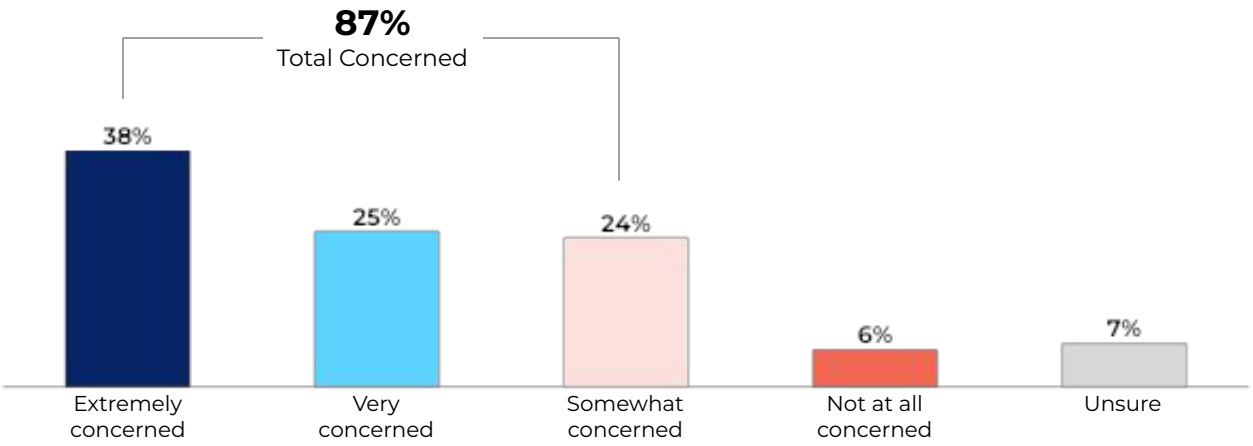
https://texas2036.shinyapps.io/hospital-pricing/

Transparency Concepts This Session

- Meaningful Price Estimates
- Expanded MRF Requirements
- Transparency of Ownership
- Transparency of Quality
- APCD Funding

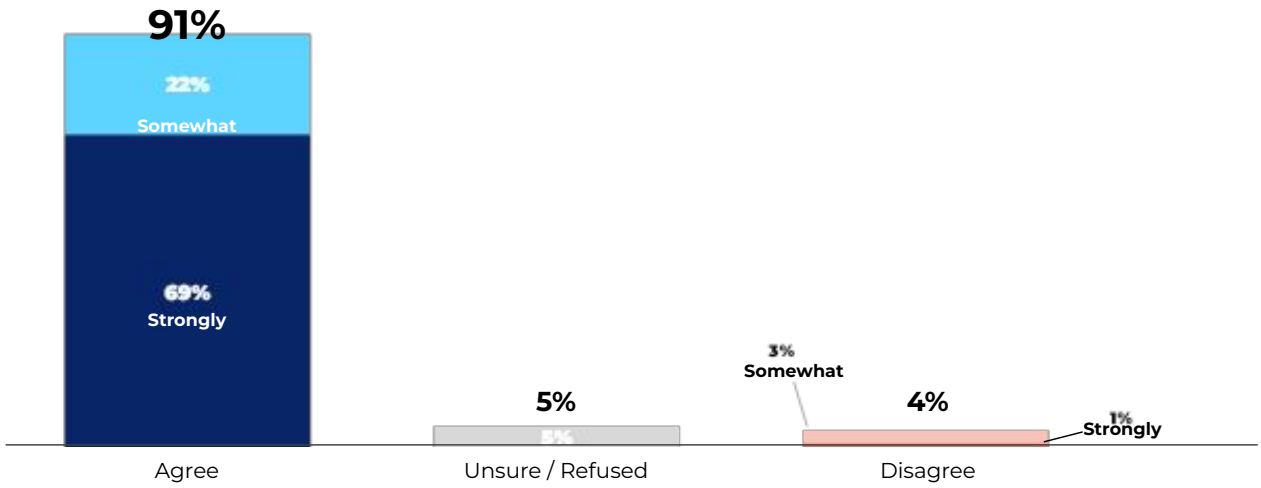
VOTER POLL

In recent years, large investment companies called private equity firms have purchased ownership stakes in doctor's offices and hospitals. Which best describes your level of concern regarding investment groups and financial entities influencing medical decision making in the doctor's offices and hospitals in which they have an ownership stake?



VOTER POLL

Do you agree or disagree that, as the pace of corporate health care mergers has increased, Texans should have a right to know who owns their hospitals, doctor's offices, and health insurers?



Tiering & Steering

What Should Employers Do?

1

Get Your Data!

- Employers own their data and have a right to access it
- Gag clauses are illegal
- Employers have a fiduciary duty to evaluate the data
- Compare your claims to publicly available price contracts

2

Tiered Networks

- Group providers into tiers
- Preferential cost-sharing options for highest-value providers
- Broader Reach, Less "Hands On"
- Less Effective After Deductible / MOOP

3

Steering

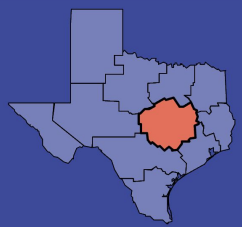
- Shared Savings Incentives
- Centers of Excellence
- Targeted Interventions & Incentives, More "Hands On"
- Can Still Work After Patient Hits Deductible / MOOP

Price Variation – Knee Arthroscopy

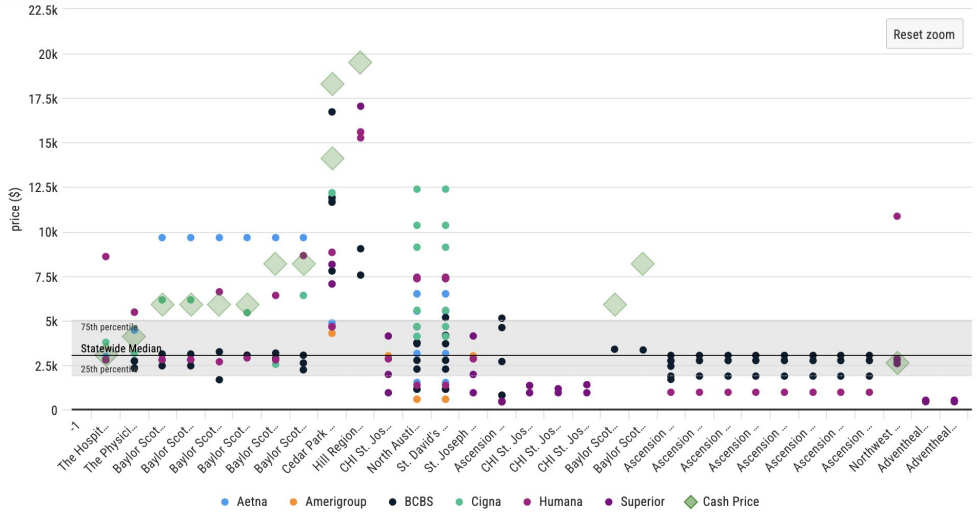
In PHR 7 , Endoscopy/Arthroscopy Procedures on the Musculoskeletal System has a **median cost of $ 3042** (ranging from 25th percentile, $ 1878 , to 75th percentile, $ 6493).

Click to see how this compares to other regions.

Select Area Type: PUBLIC HEALTH REGION | Select Area: 7



Code	Description
29881 - Knee	The provider examines the inside of the knee joint with an arthroscope. She repairs the joint by removing the meniscus, a crescent shaped cartilage cushion, from either the medial or lateral compartments of the knee joint. If required, she reshapes the articular cartilage covering the bony surfaces in either compartment by excising or shaving tissue from its surface. The procedure relieves pain and improves mobility in the joint.



*Some hospitals have mulitple cash prices for the same procedure because they bill multiple slightly different procedures under the same CPT code.

https://texas2036.shinyapps.io/hospital-pricing/

Tiering & Steering: Pros & Cons

Benefits

- Enables insurers to incentivize patients who shop for value
- Allows insurers to reward high-quality, low-price providers with more volume
- Produces market incentives for lower prices
- Allows patients to shop with more information on both price and quality

Concerns

- Self-Dealing
- Allows vertically integrated insurers to drive patients to their owned/affiliated providers

Harm Mitigation

- Fiduciary Standard
- Prohibits Self-Dealing
- Requires steering and tiering to be implemented for the sole benefit of patients & policyholders

Facility Fees

Problematic Facility Fees

- Facility Fees pay a hospital for the facility portion of the care provided.
- OK at hospitals, controversial at physician clinics.
- Some hospital-owned physician clinics are re-branded "hospital outpatient departments" (HOPDs) and charge a facility fee on top of the physician's fee.
- A symptom of consolidation.
- Two main problems to solving:
  - 1) Concentrated market power; and
  - 2) Unclear billing practices

HCCI data show meaningfully higher prices for the **same services** when they have a facility charge and a professional charge (i.e., for the physician's service) compared to when there is only a professional bill.

For example, below we show average prices for three common services when (1) there is only a professional payment and (2) there are professional and facility payments.*

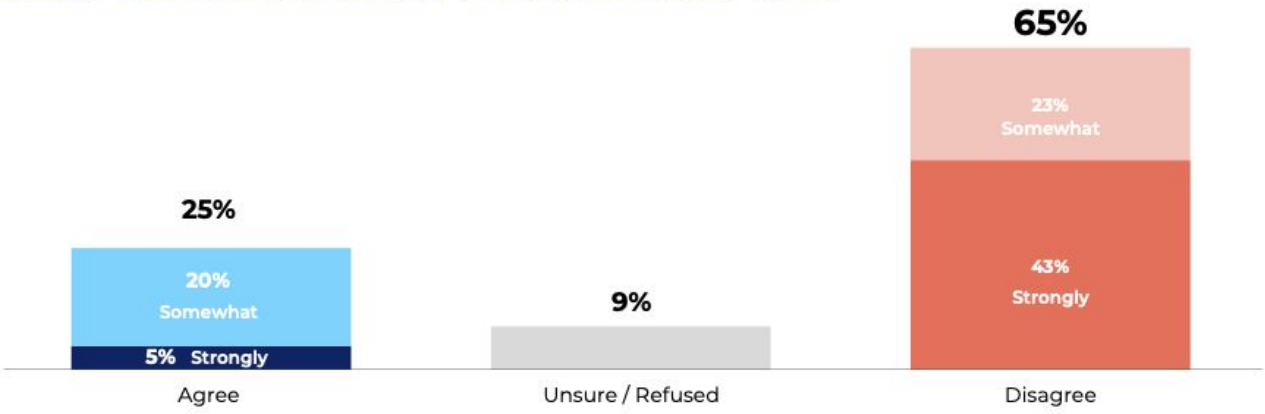
Ultrasound	$164	$339
Biopsy	$146	$791
Physician office visit	$118	$186

Approaches to Facility Fees

- Patient Disclosure
- Honest Billing & Advance Notice to Insurers
  - Unique NPI
- Limited Service-Specific Bans
  - Telehealth
  - Preventative
  - Services That Can Be Safely Performed in Outpatient Settings
- Location-Based Total Prohibition

VOTER POLL

Some hospital-owned medical clinics charge facility fees for virtual telehealth visits, in addition to the doctor's bill. Historically, facility fees have been charged by hospitals at their main facility to cover the operating costs of keeping the building open. Do you agree or disagree that the facilities should be allowed to charge patients these facility fees for telehealth visits?



TEXANS FOR AFFORDABLE HEALTH CARE:

Standing up for Texas families and businesses
Fighting the Texas Healthcare Cost Crisis

TEXANS FOR **AFFORDABLE** HEALTHCARE

TEXANS FOR **AFFORDABLE** HEALTHCARE

WHAT IS TAHC?

Texans for Affordable Healthcare (TAHC) provides an independent, non-partisan voice for families and businesses around issues impacting the cost of healthcare.

TAHC is supported by private individuals and business partners. Thousands of Texans have signed up to be a part of our coalition or used our platform to contact their lawmakers.

SOME OF THE ISSUES WE WORK ON INCLUDE:

- Reigning in Big Pharma
- Fighting costly government mandates and shedding light on their costs
- Protecting cost-saving tools like networks, discounts, and mail-order pharmacy

WHY WE NEED TAHC:

Texas is experiencing a healthcare cost crisis. Government mandates, special deals cut for narrow interest groups, and one-size-fits-all requirements that go above and beyond what's even found in Obamacare have driven healthcare and Rx drugs through the roof. Here are the results of poor policy decisions in Texas:

- We are #1 in Rx drug spending in the nation.
- Texas ranks #3 in the nation for the most health insurance mandates
- The cost of an ER visit has increased by 83% in the last decade.
- 40% of Texans report skipping doses of medication or discontinuing medication altogether due to price increases.
- The average hospital marks up prices by 300% or more.
- Drug prices have increased by 159% in the last decade.
- Health insurance premiums increased by 13% after new mandates passed by the Texas legislature.

WHAT IS A MANDATE AND WHY SHOULD YOU CARE?

Mandates require Texas employers and families to:

- Pay for extra benefits & extra regulations above the Affordable Care Act
- Pay higher prices for medical services
- Accept more one-size-fits-all insurance coverage

Texas Lawmakers are Increasingly Filing and Passing New Mandates:

88th Session (2023): Over **110** mandates filed, **77** heard, and **16** became law.

87th Session (2021): Over **100** mandates filed, and **7** became law.

The House Insurance Committee sent 36 mandate bills to the Senate in the 88th and 30 in the 87th.

WHAT'S WORSE? The Legislature often exempts their own personal health coverage through ERS and other state-funded coverage because of the costs…

3RD IN THE NATION: Texas has more mandates above the Affordable Care Act than almost any state

LAWMAKERS LACK INFO ON THE COST OF MANDATES & REGULATIONS ON TEXAS EMPLOYERS & FAMILIES.

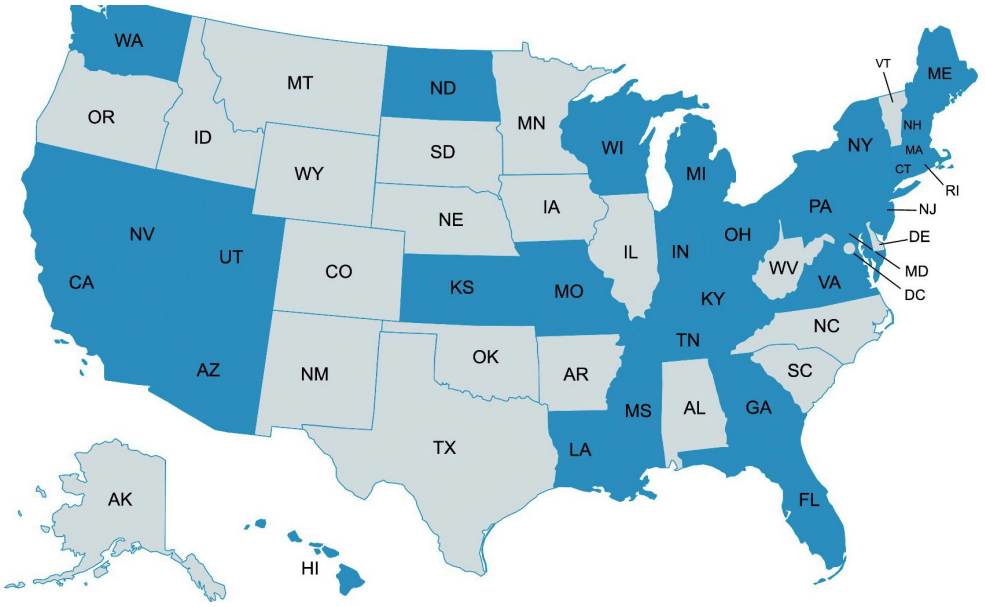
In Texas, lawmakers estimate the cost to their own coverage and other state paid plans (ERS & TRS) but never get the actual cost to businesses and families.

An effective mandate fiscal note will equip lawmakers with the data they need before voting.

Texas lawmakers should be fully informed about the cost of health care mandates on employers before passage into law.

Texas should never pass a mandate if it increases the cost of coverage.

AT LEAST 29 STATES REVIEW MANDATES



SOLUTION #1: CREATE BETTER MANDATE TRANSPARENCY

AT LEAST *29* STATES have a process to understand the impact of health care coverage mandates before enacting new laws.

- **Provide lawmakers with cost impact** to employers and families.
- **Lean on the APCD** as a source of data for these thorough reviews. Texas already collects data from health insurers and other payers that can inform legislation.
- **Analyze legislative proposal requests year-round** so lawmakers can have proposals reviewed during the interim as well as during session.
- **Include data on the current availability** of coverage, public health benefits, and available medical evidence.
- **Publicly post reviews.**

SOLUTION #2: TEXAS EMPLOYERS NEED RELIEF FROM RISING COSTS - A MORATORIUM ON HEALTH CARE MANDATES

- **Breaking Point:** Health care costs are squeezing employers' budgets. Mercer estimates a 5.8% increase in health spending in 2025, following a 5.4% increase in 2024 - a total **11% jump in just two years.**
- **Strain on Small Businesses:** Three-quarters of small businesses say their employers would rather have pay raises than health benefits.
- **Passing Costs to Workers:** 70% of businesses say even a 4% premium hike would lead to higher costs for employees.
- **Impact on Wages:** Workers have lost 5% in wages due to rising premiums, on top of higher out-of-pocket expense.
- **Bottom Line:** Rising health care costs are hitting Texans' pocketbooks hard.
- **A Moratorium on Mandates** can help control costs and ease the financial burden on both businesses and employees.

SOLUTION #3: GIVE EMPLOYERS MORE FLEXIBILITY & OPTIONS

- **Limits on Flexibility Hurt Employers:** Texas mandates block market-driven solutions that could lower health care costs, leaving employers with outdated regulations that don't meet current needs.
- **Employers Want More Freedom:** 77% of Texas employers want the ability to offer innovative benefits, but state regulations force many to choose self-funded plans to avoid restrictions.

MARKET-DRIVEN SOLUTIONS CAN LOWER COSTS:

1. **Allow Shopping Incentives:**
   - Let insurers reward patients with lower out-of-pocket costs for choosing high-value, low-cost providers.
   - Remove barriers to sharing quality and cost information.
2. **Enable Value-Based Care:**
   - Support direct and advanced primary care models that reward outcomes, not volume.
   - Allow PPO and EPO plans to use value-based care, not just HMOs.

SOLUTION #4: REJECT ATTEMPTS TO RESTRICT EMPLOYERS EVEN MORE – EFFORTS TO APPLY MANDATES TO ERISA PLANS

- **Protect ERISA Employer Flexibility:** Employers are leading with innovation and Texas should reject attempts to regulate self-funded ERISA employers.
- **ERISA Mandate Threat:** Increasing efforts aim to impose costly mandates on employer self and level -funded coverage, despite ERISA preemption.
- **Costly Texas ERISA Threat:** Last session's SB 1137/HB 2021 aimed to impose expensive state pharmacy mandates on self-funded ERISA plans, restricting cost-saving options and adding $464M in first-year costs and $5.4B over 10 years.
- **Texas Employers Successfully Advocated Against ERISA Mandates:** Employers and Chambers of Commerce advocated against these mandates, and the Legislature rejected ERISA proposals.
- **New Effort to Create Employer Mandates**: New AG Opinion request to determine if the mandates proposed last session (SB 1137) should already be imposed on employers that are self-funding coverage.

TEXANS FOR AFFORDABLE HEALTHCARE

DISCUSSION / Q&A

Annie Spilman: Annie@texansforaffordablehealthcare.com

LEARN MORE:
TexansforAffordableHealthCare.com

What is Charity Care and How Does It Impact Texas Healthcare?

Tanner Aliff
Visiting Research Fellow | Paragon Health Institute

What is Community Benefit?

- All nonprofit hospitals and systems that file a Form 990 Schedule H are required and expected to spend a portion of their revenue on "community benefits."
- Unlike other types of non-profit organizations that incorporate as a 501(c)(3) NPHs must provide community benefit in order to maintain their tax exemption status over property, valorum, bonds, sales, corporate income, and state income taxes (doesn't apply to Texas). The idea is that non-profit hospitals get saved from taxes because they are expected to spend that tax-spared revenue

Types of Community Benefit as Defined by the IRS Section 501(r)

- Medicaid Losses (i.e., when Medicaid reimburses below the cost of service)
- Public Health Programs (i.e., disease prevention programs)
- Health Profession Education (i.e., training undergrad nursing majors etc)
- Research (i.e., UT researching better ways to avoid catching the common cold or improving surgery procedures)
- Donations (i.e., cash in-kind or sharing of medical resources)
- **CHARITY CARE (i.e., discounting or completely subsidizing the full cost of an low-income patients' medical bill/cost-sharing)**

What's Texas' Expectation of Charity Care in the Law?

Chapter 311 Sec. 311.045 of the Health & Safety Code

- **Texas' Expectation of NPH Charity care**
  - 4% of revenue on charity care and Medicaid loss
  - 5% of revenue on charity care (4%) and other eligible community benefit (1%) spending
  - 8% on charity care (*this provides additional tort protection*)
  - Full value of the hospital or hospital system's tax exemption
- **Disclosure Laws**
  - All liable hospitals must post a charity care sign in their waiting rooms

What's Happening Across the Country? Why is Charity Care Important?

Big Happenings from the Last 5 years

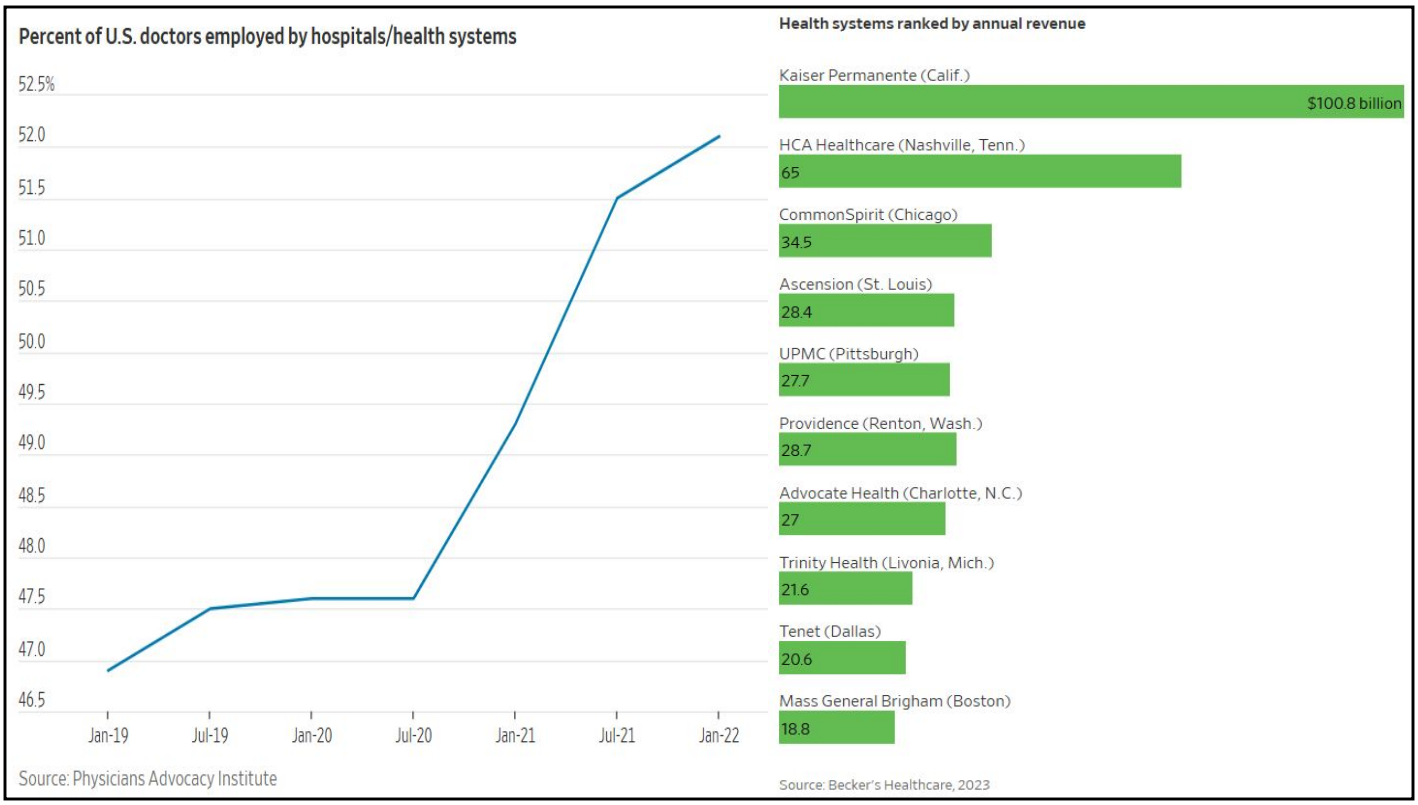
- 14 Providence & Swedish hospitals had to pay $186 million in restitution for wrongfully sending 32,000 low-income patients to debt collectors
- Two Tower Health System Hospitals were stripped of their tax-exempt status by the courts
- NC Treasurer and Johns Hopkins' Community Benefit Audit confirmed 81% of non-profit hospitals spent less than 4% of their tax-exemption
- Montana Legislative Community Benefit Audit confirmed that all non-profit hospitals

The Worries About Lackluster Charity Care Performance

- Increases of wrongful or unnecessary medical debt incursion
- Medicaid offloading and increases in regressive taxes
- Non-profit hospitals are outpacing private equity and for-profit hospitals in doctor office acquisitions and hospital mergers
- Enabling rapid consolidation
- Increases non-medical delays in care
- Providing additional safety net for uninsured patients

Perturbing Studies and Trends

- Across the nation, half of all non-profit hospitals spend less than 1.4% of their operating expenses on charity care (KFF)
- When adjusted for inflation, Texas non-profit hospitals have not spent more on charity since 1995 after the state passed a law allowing non-profit hospitals to deduct bad-debt from their
- Nearly 71% of Texans do not know that charity care exists or that non-profit hospitals. 21% mistaked hospital credit card and payment plans as financial assistance (TPPF Polling)
- Texas non-profit hospitals pay, on average only 1.67% more on charity care than for-profit hospitals (TPPF, Heritage Foundation)
- On national average, for-profit hospitals (who do not receive tax exemptions) pay $3.80 per $100 of expense compared to their non-profit counterparts that spent only $2.30 per $100 of expense (Fierce Healthcare)
- In the last quarter of 2023, 843 patients were pre-screened and deemed eligible for a large Austin based non-profit hospital's charity care policy. 657 applied. Only 8 applications were approved in a 90 day period (Dollar For)



What Have States Done to Address Charity Care Reform?

Washington

- Passed law requiring that all non-profit (except for DSH hospitals) to 100% cover costs of charity care applicants who makes less than 400% FPL
- Attempted to pass a law that would require all facilities owned by the hospital to accept charity care applications

Oregon

- Passed law requiring that all non-profit hospitals must attest a patient is not eligible for the hospital's charity care policy before pursuing debt collection or enrolling a patient onto Medicaid

North Carolina

- Attempted to pass a law that would compel non-profit hospitals to disclose their charity care performance and raise minimum eligibility standards (i.e., any patient who now makes less than 300% FPL can be eligible for fully compensated charity care).

What to Look Out for this Session, Takeaways, and Texas Opportunities

HB1 Sec. 17.34 Community Benefit Study

- Last session HB1 possessed a budget rider to review and contrast the performance of all licensed Texas' hospitals' charity performance
- Contrast medical debt issuance rates and practices
- Evaluating "real Medicaid losses"

Takeaways

- There is a large body of growing evidence suggesting NPHs are not living up to their charitable mission
- Abuse and lack of oversight of charity care stands to burden Medicaid, increase regressive taxes and let Texans fall into unnecessary medical debt
- There is evidence suggesting that non-profit hospitals are abusing their tax-exempt status to beat out competition and consolidate (which is correlated with rising healthcare prices and facility fees)

Texas Opportunities

- Meyers & Stauffer were supposed to publicly publish their findings on December 1st. This has not happened.
- Remove outdated disclosure laws and encourage hospitals to automate their charity care application process
- Protect Texans from wrongful medical debt
- Alleviate tension from rapid hospital consolidation and create market oppr
- Holding non-profit hospitals accountable to the law