

Pennsylvania House Health Committee Public Hearing on House Bills 1621 and 1622  
Testimony of William Winkenwerder, Jr., MD, MBA, President & CEO, Highmark Health  
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Good morning. My name is Bill Winkenwerder and I am the president and CEO of Highmark Health. With me today is Deborah Rice-Johnson, the president of Highmark Health Plan, which is our health insurance business.

I'm here today to offer comments on House Bills 1621 and 1622 and to explain why we believe this legislation is a vital step toward protecting some fundamental values about health care that are near and dear to all of us. We strongly support this legislation because it will preserve the ability of people to choose – choose their health plan, choose their hospitals, choose their doctors ... affordably!

It will also stimulate true competition, **where health care providers and insurance companies compete** based on delivering high-quality care at an affordable cost. That's what healthy capitalism is all about.

We must stop in its tracks the destructive trend by which hospitals and health systems join together, not just to achieve efficiencies of scale and better "systems" of care, but to reduce competition and limit consumer choice so that they, not the market, control where and to whom health care is delivered, and at what price.

This legislation will help guarantee that community-based hospitals and health care systems, built by and supported by community donations, taxpayer dollars, government subsidies and insurance premiums, are open to everyone, without qualification.

During the day, you have heard different perspectives about what this important legislation will mean for health insurers, hospitals and the health care marketplace. However, in my opinion, the guiding purpose of this legislation is to do what's right and fair for Pennsylvania consumers -- making sure they can select hospitals and doctors of their choice, making sure the continuity of their care is maintained, and making sure they are not forced to abandon their personal physician.

These are the real concerns of your constituents in the Commonwealth, many of whom are also Highmark members, numbering more than 3.5 million in Pennsylvania. These are the real concerns of the thousands of Pennsylvanians who have written to you and other members of the General Assembly in support of this legislation.

As you are well aware, the health care market is going through unprecedented change, driven by federal health care reform, rising medical costs and the need to improve health care quality and patient safety.

Another less-publicized, but no less important, change is the wave of hospital mergers, acquisitions and consolidations, which is the reason we are here today.

Across the country and throughout the Commonwealth, it seems like every week we are hearing about large hospitals buying up community hospitals and health care systems purchasing independent physician practices.

With all this news about hospital mergers and acquisitions, it is logical for consumers to wonder who is thinking about them and their families. And who will protect them if they are forced to switch doctors or if their health insurance is no longer fully accepted at the most convenient facility near to where they live and work? This legislation, if enacted, will show that government can work for what's best for the people.

If you have any doubt about how the health care market is changing, just look at some of the data. The number of hospital mergers and acquisitions in the U.S. more than doubled from 50 in 2009 to 105 in 2012. Put another way, hospitals acquired more than 19,300 beds in 2012. That is three times the number of beds acquired in 2008. We are also seeing many hospitals aggressively buying independent physicians and physician practices. In 2000, physicians owned 70% of medical practices, while hospitals owned less than 25%. Now, the tables have turned, and hospitals own nearly 70% of medical practices, while physician ownership stands at about 30%. As a result, independent physicians are starting to become rare species. Today, they represent only 39% of practicing physicians. And the number is dwindling every day.

Why are smaller hospitals and physician practices combining with much larger health systems? Several forces are driving hospital and physician consolidation. The Affordable Care Act, the steady migration of care from inpatient hospital settings to ambulatory surgery centers and other outpatient settings, and changes in payment methods from fee-for-service reimbursement to a pay-for-performance approach are just a few.

Faced with increased financial pressures, including cuts in Medicare funding, hospitals feel compelled to join with other institutions and doctors to create larger health systems that can generate a steady supply of patients and capture more revenue. A recent *Forbes Magazine* article observed that hospitals are reaching a "strategic inflection point," meaning that the hospital industry has arrived at a defining moment when the rules of the game have begun to change, and they must act swiftly to preserve their financial independence.

We do not decry these decisions. They are a response to changing economics and the need to survive and thrive. But there are other factors to consider – the consumer himself, families, small businesses, and the rising cost of medical care.

Additionally, health systems are increasingly taking on new roles and becoming health insurers. Spurred by health care reform and the creation of health insurance exchanges, health systems are weighing the risks and benefits of becoming a payor in the ever evolving health care industry. In fact, a June 2013 survey by the Advisory Board Company, a Washington, D.C.-based think tank, revealed that 1 in 5 health systems plan to launch a health insurance plan by 2018.

To ensure that the price of medical services is not set by one health system and to preserve patient choice, communities across the Commonwealth need more, not less, provider competition. That is the reason Highmark formed the Allegheny Health Network in the western region of the state. And Allegheny Health Network is starting to make tangible progress toward achieving true provider competition in Western Pennsylvania – built around delivering high-quality care at an affordable cost that is transparent to consumers.

The risk the Commonwealth must guard against is cartel-like competition without choice where large health care systems, not the free market, control the price of medical care because their institution is viewed as a “must-have provider” in a health plan’s provider network. This becomes more problematic when a large provider system operates its own health insurance company.

Higher medical costs translate into higher health insurance premiums for Pennsylvania residents, making our communities a less-attractive place for businesses to locate or expand their operations.

The refusal of a large health system to sign agreements with Pennsylvania-based insurers, while inking contracts with national health insurers headquartered out of state, can also have a far-reaching impact on our local economy. As insurance premium dollars flow from the Commonwealth to other states, there will be a ripple effect on employment at Pennsylvania-based insurance companies. Moreover, these local companies may be unable to sustain their historic support of financially strapped community programs that improve the health of Pennsylvanians and support local communities and Pennsylvania small businesses.

Opponents of the legislation will argue that the government should not interfere with the business affairs of the private health care marketplace. But the delivery of health care is one of the most critical and heartfelt aspects of people’s lives. It is not like making widgets. When the potential harm to consumers is so closely linked to their day-to-day health and well-being, definitive rules become imperative to protecting the interests of the public and the community. And in this case, government is acting to ensure consumers have choices and are protected, not to require them to do anything.

I also find it curious that the for-profit health insurance industry seems to have flip-flopped its position about the role of government to preserve consumer choice. I’d like to read a quote from the CEO of Health America’s Pennsylvania operations that was delivered in April 2012 at a Pennsylvania Insurance Department hearing to review Highmark’s affiliation with the West Penn Allegheny Health System:

“Health America supports competition. Competition among health care providers and insurers. We support consumer choice. And we support health care accessibility and affordability. We believe that legislative and regulatory actions may be necessary to achieve and ensure these goals for the patients and the

health care consumers in Western Pennsylvania.”

Health America is a member of the Insurance Federation of Pennsylvania, which today came out strongly against this legislation on the grounds that government should not interfere with the business of health care.

The for-profit health insurance industry wanted tighter government regulations to further its own interests when it applied to Highmark’s integrated delivery network, but now wants a hands-off approach when it applies to other such networks. We believe the for-profit health insurers had it right the first time: a fair set of rules is necessary to preserve consumer choice as it applies to all integrated delivery networks.

The increasing consolidation of hospitals and physician practices and the growing power of large health care providers are creating fear and uncertainty among many Pennsylvanians. Out-of-control market power due to provider consolidations is not confined to one region in the state. While the impact is currently being felt more acutely by residents in Western Pennsylvania, there is no doubt that other regions in the state will soon experience the anti-consumer effects of provider consolidations. The Commonwealth must protect the interests of all Pennsylvanians who either now or in the future will be affected as they seek affordable medical care of their choice.

State government historically has played a central role to ensure open competition in health care and other industries.

For example, state action to promote greater competition in the public utilities industry has resulted in more choice and lower utility rates for consumers.

The state has also been proactive to protect the public’s general welfare when new technologies enter the marketplace, such as regulating the use of cellphones and other electronic devices while people drive.

As things stand today, current laws and regulations do not adequately safeguard the public against the growing market power of large health systems and integrated delivery networks that have emerged during the past several years and will continue to expand. To be specific, the state lacks clear authority to prevent a large hospital or a doctor affiliated with a large delivery system from denying affordable access to care or refusing to treat longstanding patients, even if patients are in the middle of treatment. And the irony is most such systems are constituted as “charities,” not-for-profit 501(c) 3 entities whose purpose is to serve the community.

Some skeptics will maintain that since no other states have passed specific legislation regulating the business conduct of large health systems, why should Pennsylvania? The reality is that the delivery and financing of health care across the country is entering uncharted waters. Provider consolidation activity and the formation of well-financed integrated delivery systems are increasing significantly, inevitably leading to higher prices. Pennsylvania consumers are feeling the effects of higher prices right now.

As large health systems employ, acquire or effectively control previously independent physicians or physician practices, well-established patient-physician relationships are put at risk and the continuity of patient care is disrupted. In addition, if previously competing physicians are consolidated, there is less competition among these physicians. Pennsylvania consumers are feeling the effects of broken patient-physician relationships right now.

House Bills 1621 and 1622 represent an important first step toward addressing the concerns of individual consumers and employers about the market power of very large health systems, while also promoting open competition among providers that will spur improvements in health care quality and innovation in care delivery.

The bills also benefit health care providers, as well, by setting predictable ground rules for them in today's changing health care environment and advancing the core objectives of health care reform – lower costs, high-quality care and consumer choice.

We believe the legislation prudently focuses first on hospitals operating as part of an integrated delivery and financing network, where a large health system and an insurance carrier operate under one corporate umbrella. Three IDFNs currently exist in Pennsylvania – Geisinger Health System, UPMC and the new Highmark/Allegheny Health Network – and others are likely to soon become part of the state's health care marketplace. These organizations merit our immediate attention because, as both providers and insurers, their actions and business practices can have an enormous impact on consumers and the health care marketplace. If left unchecked, IDFNs pose a significant threat to consumers through the power they can exert in a given community.

In closing, I believe Pennsylvania has an opportunity to be a model for other states. We can show the nation how to lay an appropriate and responsible foundation for the changing health care marketplace, one that:

- Preserves consumer choice,
- Encourages open competition based on real value, rather than market size,
- Maintains continuity of patient care, and
- Ensures affordable access to all charitable health care institutions, regardless of a family's insurance carrier.

Thank you. And now Deborah Rice-Johnson will discuss the impact of provider consolidation from the perspective of our health plan members.