Private Equity in Healthcare: State policy tools for affordability, access, and accountability

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Private Equity Stakeholder Project (PESP) (pestakeholder.org)

- The Private Equity Stakeholder Project (PESP) is a nonprofit watchdog organization focused on the growing private equity and broader private funds industry.
- PESP was founded in 2017 to address the growing impacts of private equity and private funds managers on people and the planet, and to serve as a resource to communities, individuals, and organizations grappling with such impacts.
- PESP focuses on five key areas affected by private equity: climate and energy, workers & jobs, housing, healthcare, and detention & surveillance.
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Why private equity ownership draws state involvement

- States regulate licensure, access, and Medicaid financing, making them responsible when PE-owned providers destabilize
- **PE ownership structures** can delay visibility into financial risk until closures, service cuts, or liquidity crises emerge
- Financial strategies such as **sale-leasebacks, leverage, and dividend payouts** shift risk to operating entities and communities
- When capital exits or fails, states are left managing access disruptions, fiscal exposure, and regulatory response

Challenges tracking private equity

- **Limited ownership disclosure:** Private equity firms are generally not required to disclose acquisitions or ownership details at the state or federal level, making even basic counts of PE-owned providers hard to compile.
- The **PESP Private Equity Hospital Tracker identifies approximately 488 U.S. hospitals currently owned by private equity**, representing a significant share of proprietary facilities and rural access points.
- **Opaque financial and transaction details:** Key aspects of PE deals (debt structures, related-party payments, and intermediate entities) are often not publicly reported, making it difficult for policymakers to assess risk before distress emerges.

Healthcare bankruptcies involving PE-backed companies (2024)

- **Large bankruptcies:** PE connected to **56%** of U.S. bankruptcies with ≥$500M liabilities (27 of 48)
- **All bankruptcies:** PE-backed companies were **11%** of U.S. corporate bankruptcies (75 of 697)
- **Healthcare:** PE-backed companies were **21%** of healthcare bankruptcies (14 of 68)
- **Largest healthcare filings:** PE-backed companies accounted for **7 of the 8 largest healthcare bankruptcies**
- **Implication for states:** PE ownership history is a practical risk-screening flag for heightened disclosure and monitoring
- *(Source: PESP Private Equity Bankruptcy Tracker)*

Select research findings on private equity

- Findings across studies of higher costs to patients or payers; mixed-to-harmful quality impacts common.
- **Hospitals (patient safety):** PE acquisition associated with increased hospital-acquired adverse events (e.g., falls, infections) among Medicare inpatients. *(Kannan, Bruch & Song, 2023; JAMA)*
- **Physician practices (spending/utilization):** PE acquisition associated with higher allowed amounts per claim and higher visit volume in dermatology, gastroenterology, and ophthalmology practices. *(Singh et al., 2022; JAMA Health Forum)*
- **Nursing homes (mortality/staffing):** PE ownership associated with higher mortality and declines in staffing and compliance in Medicare data. *(Gupta et al., 2021; NBER Working Paper)*

Existing tools to address private equity-related risks leave gaps

- Available means often address **downstream risks and impacts** associated with private equity ownership, rather than regulating common private equity financial tactics.
- **Oversight:** hearings, data requests, Medicaid audits, licensure and reporting conditions
- **Enforcement:** Attorney General authority under consumer protection, antitrust, and licensing statutes
- **Transparency:** ownership disclosure, public transaction notices; advance closure or service-line change notice

Example: Oregon (Health Care Transaction Review)

- **Transaction type:** Proposed mergers, acquisitions, affiliations, sales, or other transactions resulting in a **material change of control** of a health care entity, including private equity-backed deals
- **Approval authority:** Oregon Health Authority (OHA) conducts reviews under the Health Care Market Oversight (HCMO) program
- **Regulatory powers:** OHA may **approve, approve with conditions, or disapprove material change transactions** based on statutory criteria related to access, cost, equity, and quality of care, as implemented through administrative rules.

Private equity mechanisms that increase risk but are not widely regulated

- **Private equity financial mechanisms are frequently not regulated.**
- **Sale-leasebacks:** hospitals monetize real estate and become long-term tenants with fixed rent obligations
- **Dividend recapitalizations:** debt-funded payouts to owners increase leverage without improving care delivery
- **High leverage combined with fees:** management and advisory fees reduce operating flexibility during downturns
- Financial **control often sits outside** the licensed provider that states regulate and oversee

Case illustration: Steward Health Care

- Multi-state hospital system
- Owned by Cerberus Capital Management beginning in 2010
- **2016:** ~$1.25B transaction with Medical Properties Trust monetized hospital real estate
- **2016:** reported dividend of ~$790M, with ~$719M paid to Cerberus
- **2020:** Cerberus sold its controlling interest to a physician-led group; profit ~$800M over entire ownership period
- **2024:** Steward Chapter 11 filing with ~$9B liabilities, including ~$6.6B in long-term rent obligations

State policy approaches in 2025

- **Transparency & Reporting:** Require disclosure of ownership, financing, and control relationships, often paired with advance notice before transactions close.
- **Approval & Enforcement Authority:** Expand regulators' power to approve, condition, or block transactions that threaten access, quality, or financial stability.
- **Targeted Prohibitions:** Restrict or prohibit specific financial practices associated with PE risk, such as sale-leasebacks or highly leveraged transactions.
- **Corporate Practice of Medicine (CPOM):** Strengthen or clarify limits on non-clinician control of medical practices, including through MSO and management arrangements.

Example 1: Massachusetts (H. 5159)

- **Enacted law:** H.5159 was signed into law on January 8, 2025, strengthening the Commonwealth's health care market oversight framework.
- **Broad scope:** Expands oversight across a wide range of providers and provider organizations, and incorporates **significant equity investors, health care REITs, and management services organizations** into market review and reporting structures.
- **Design emphasis: Enhances material change notice and financial reporting requirements**, increasing state visibility into ownership structure, debt, and real estate arrangements.
- **Targeted restriction on sale-leasebacks:** Prohibits granting or renewing a license for an acute-care hospital whose main campus is leased from a health care REIT, with existing arrangements grandfathered.

Example 2: Pennsylvania (HB 1460)

- **Status:** HB 1460 has been introduced and is **under consideration**; it has not been enacted.
- **Core structure:** Would require **pre-transaction review** involving the Pennsylvania Attorney General and the Department of Health for covered health care transactions.
- **Public-interest standard:** Prohibits **transactions deemed against the public interest**, and authorizes the Attorney General to seek injunctions or impose enforceable conditions through voluntary agreements.
- **Financial practices addressed: Defines leaseback agreements as a relevant transaction type** and treats their use as a factor in determining whether a transaction is against the public interest.

Example 3: California (SB 351/AB 1415)

- **Expanded notice and reporting (AB 1415):**
  - Requires advance notice to California's Office of Health Care Affordability for certain transactions involving private equity, hedge funds, and management services organizations (MSOs), including asset transfers and changes in control.
- **Strengthened CPOM enforcement (SB 351):**
  - Prohibits private equity and hedge funds from interfering with physicians' and dentists' professional judgment, including control over clinical staffing and billing decisions.
- **Limits:** These laws focus on notice, transparency, and clinical control, but **do not prohibit or directly constrain debt-funded payouts, dividend recapitalizations, or real-estate extraction** such as hospital sale-leasebacks.

Vermont (H.583) - a possible national leader

- Direct limits on debt-driven extraction:
  - Prohibits certain acquisitions financed with **debt that becomes an obligation of the healthcare entity**, and prohibits debt-funded dividends or distributions paid by or pushed onto the provider.
- Regulates related-party financial leakage:
  - Restricts certain affiliated and management-related contracts unless they are necessary for legitimate healthcare purposes and compensated at fair market value, addressing **fee extraction outside licensed entities**.
- Closes CPOM and MSO loopholes:
  - Requires physician-majority ownership and governance of medical practices and **limits MSO arrangements that allow indirect control over clinical or financial decisions**.
- Creates public ownership and control transparency with enforcement:
  - Requires **public disclosure** of owners, controlling interests, MSOs, and financial relationships, enforced by the Attorney General with statutory penalties for violations.

Key takeaways

- Private equity ownership reshapes how financial and operational risk is created and shifted within healthcare systems
- Specific financial practices (such as high leverage and sale-leasebacks) can undermine access and stability well before distress becomes visible
- States already possess some oversight and approval tools, which are not sufficient to address private equity-related risks
- Early visibility and constraints on transactions are essential to preventing late-stage, crisis-driven governance