

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6885

To amend title XI of the Social Security Act to provide for the disclosure and analysis of certain health-related ownership information.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2022

Ms. JAYAPAL introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XI of the Social Security Act to provide for the disclosure and analysis of certain health-related ownership information.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthcare Ownership  
5 Transparency Act”.

1 **SEC. 2. DISCLOSURE AND ANALYSIS OF CERTAIN HEALTH-**  
2 **RELATED OWNERSHIP INFORMATION.**

3 (a) IN GENERAL.—Part A of title XI of the Social  
4 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
5 ing at the end the following new section:

6 **“SEC. 1150C. DISCLOSURE AND ANALYSIS OF CERTAIN**  
7 **HEALTH-RELATED OWNERSHIP INFORMA-**  
8 **TION.**

9 “(a) REQUIRED DISCLOSURE OF CERTAIN HEALTH-  
10 RELATED PRIVATE EQUITY OWNERSHIP INFORMA-  
11 TION.—The Secretary shall issue rules to require a cov-  
12 ered firm to submit to the Secretary, through the Provider  
13 Enrollment, Chain, and Ownership System as part of the  
14 enrollment and revalidation of enrollment processes under  
15 title XVIII for providers of services and suppliers—

16 “(1) for a covered firm with respect to which  
17 there is a private equity fund that is a control per-  
18 son of the covered fund, the information described in  
19 subsection (b); and

20 “(2) for a covered firm not described under  
21 paragraph (1), the information described in sub-  
22 section (c).

23 “(b) INFORMATION SUBMITTED BY COVERED FIRMS  
24 OWNED BY PRIVATE EQUITY.—For purposes of sub-  
25 section (a) and with respect to a covered firm and each  
26 private equity fund that is a control person of the covered

1 firm, the information described in this subsection is the  
2 following information with respect to each year of the pre-  
3 vious 10-year period:

4 “(1) The percentage of the equity of the private  
5 equity fund contributed by—

6 “(A) the general partners of the fund; and

7 “(B) the limited partners of the fund.

8 “(2) The level of debt of the covered firm at the  
9 end of the applicable year.

10 “(3) Information on the debt held by the pri-  
11 vate equity fund, including—

12 “(A) the dollar amount of total debt;

13 “(B) the percentage of debt for which the  
14 creditor is a financial institution in the United  
15 States;

16 “(C) the percentage of debt for which the  
17 creditor is a financial institution outside of the  
18 United States;

19 “(D) the percentage of debt for which the  
20 creditor is an entity that is located in the  
21 United States and is not a financial institution;  
22 and

23 “(E) the percentage of debt for which the  
24 creditor is an entity that is located outside of

1 the United States and is not a financial institu-  
2 tion.

3 “(4) The total amount of debt held by the cov-  
4 ered firm that is categorized as—

5 “(A) liabilities;

6 “(B) long-term liabilities; and

7 “(C) payment in kind or zero coupon debt.

8 “(5) The average debt-to-equity ratio of—

9 “(A) each covered firm with respect to the  
10 private equity fund; and

11 “(B) the private equity fund.

12 “(6) The average debt-to-EBITDA (Earnings  
13 Before Interest, Taxes, Depreciation, and Amortiza-  
14 tion) of each covered firm with respect to the private  
15 equity fund.

16 “(7) The total number of covered firms with re-  
17 spect to the private equity fund that experienced a  
18 default during the applicable year, and the name of  
19 any such covered firm.

20 “(8) The total gross asset value of each covered  
21 firm with respect to the private equity fund.

22 “(9) The gross performance of the private eq-  
23 uity fund during the applicable year.

24 “(10) The total dollar amount of aggregate fees  
25 and expenses collected by the private equity fund,

1 the manager of the fund, or related parties from  
2 covered firms with respect to the private equity  
3 fund, which shall—

4 “(A) be categorized by the type of fee; and

5 “(B) include a description of the purpose  
6 of the fees.

7 “(11) Any transaction, monitoring, manage-  
8 ment, performance, or other fees collected by the  
9 private equity fund from the covered firm.

10 “(12) In dollars, the total amount of regulatory  
11 assets under management by the private equity  
12 fund.

13 “(13) In dollars, the total amount of net assets  
14 under management by the private equity fund.

15 “(14) With respect to the applicable year, the  
16 difference obtained by subtracting the financial  
17 gains of the private equity fund by the fees that the  
18 general partners of the fund charged to the limited  
19 partners of the fund (commonly referred to as the  
20 ‘performance net of fees’).

21 “(15) Any management services agreements be-  
22 tween the covered firm and the private equity fund,  
23 including a disclosure of fees paid through manage-  
24 ment services agreements.

1           “(16) Any other services procured by the cov-  
2           ered firm from the private equity fund or any other  
3           company owned by the private equity fund.

4           “(17) Dividends paid by the covered firm to the  
5           private equity fund.

6           “(18) The names of—

7                 “(A) the limited partners of the private eq-  
8                 uity fund;

9                 “(B) the board members of the private eq-  
10                uity fund; and

11               “(C) the leadership of the covered firm.

12           “(19) All political spending by the covered firm,  
13           including contributions, lobbying spending, and con-  
14           tributions to groups that do not share their donor  
15           list.

16           “(20) All political spending by the private eq-  
17           uity fund, an affiliate of the fund, or an investment  
18           professional at the fund, with respect to—

19                 “(A) health care-related issues; or

20                 “(B) members of congressional committees  
21                 with oversight of health care.

22           “(21) Information on the extent to which the  
23           covered firm entered into any sale lease back trans-  
24           actions with the private equity fund.

1           “(22) Every asset purchased by the covered  
2 firm during the applicable year.

3           “(23) Information that is similar to the infor-  
4 mation of the kind that would be required to be in-  
5 cluded in a notification filed pursuant to the rules  
6 issued under subsection 7A(d)(1) of the Clayton Act  
7 (15 U.S.C. 18a(d)(1)).

8           “(24) Data related to real estate, mortgage,  
9 and lease payments.

10           “(25) Interest expenses and payments made by  
11 the private equity fund and each covered firm with  
12 respect to the private equity fund to comply with tax  
13 receivable agreements.

14           “(26) Average interest rate paid on secured and  
15 unsecured lines of credit by the private equity fund  
16 and each covered firm with respect to the private eq-  
17 uity fund.

18           “(27) For the private equity fund and each cov-  
19 ered firm with respect to the private equity fund, a  
20 list of—

21                   “(A) all transactions with the 10 largest  
22 vendors or service providers; and

23                   “(B) any new vendors or service providers.

1           “(28) For the private equity fund and each cov-  
2           ered firm with respect to the private equity fund, the  
3           number of payments to staffing firms.

4           “(c) INFORMATION SUBMITTED BY COVERED FIRMS  
5 NOT OWNED BY PRIVATE EQUITY.—For purposes of sub-  
6 section (a) and with respect to a covered firm, the infor-  
7 mation described in this subsection is the following infor-  
8 mation with respect to each year of the previous 10-year  
9 period:

10           “(1) The level of debt of the covered firm at the  
11           end of the applicable year.

12           “(2) The total amount of debt held by the cov-  
13           ered firm that is categorized as—

14                   “(A) liabilities;

15                   “(B) long-term liabilities; and

16                   “(C) payment in kind or zero coupon debt.

17           “(3) The average debt-to-equity ratio of the  
18           covered firm.

19           “(4) The average debt-to-EBITDA (Earnings  
20           Before Interest, Taxes, Depreciation, and Amortiza-  
21           tion) of the covered firm.

22           “(5) Whether the covered firm experienced a  
23           default during the applicable year.

24           “(6) The total gross asset value of the covered  
25           firm.



1           “(7) Dividends paid by the covered firm.

2           “(8) The names of the leadership of the covered  
3 firm.

4           “(9) All political spending by the covered firm,  
5 including contributions, lobbying spending, and con-  
6 tributions to groups that do not share their donor  
7 list.

8           “(10) Every asset purchased by the covered  
9 firm during the applicable year.

10           “(11) Information that is similar to the infor-  
11 mation of the kind that would be required to be in-  
12 cluded in a notification filed pursuant to the rules  
13 issued under subsection 7A(d)(1) of the Clayton Act  
14 (15 U.S.C. 18a(d)(1)).

15           “(12) Data related to real estate, mortgage,  
16 and lease payments.

17           “(13) Interest expenses and payments made to  
18 comply with tax receivable agreements.

19           “(14) Average interest rate paid on secured and  
20 unsecured lines of credit.

21           “(15) A list of—

22                   “(A) all transactions with the 10 largest  
23 vendors or service providers; and

24                   “(B) any new vendors or servicer pro-  
25 viders.

1           “(16) The number of payments to staffing  
2 firms.

3           “(d) REQUIREMENT TO PROVIDE INFORMATION TO  
4 A COVERED FIRM.—A private equity fund that is a control  
5 person of a covered firm shall provide the covered firm  
6 with any information required to complete a disclosure  
7 under this section.

8           “(e) GAO ANALYSIS.—

9           “(1) ANALYSIS.—Not later than 12 months  
10 after the date of implementation of this section, and  
11 every 3 years thereafter during the 12-year period  
12 beginning on the date of the enactment of this sec-  
13 tion, the Comptroller General of the United States  
14 shall conduct a comparative analysis, using the in-  
15 formation submitted under this section, to determine  
16 to what extent health care consolidation is taking  
17 place and how this consolidation and private equity’s  
18 involvement in health care is contributing, among  
19 other factors, to the following indicators:

20                   “(A) Revenue and cost to charge ratio.

21                   “(B) Payor mix and case mix index.

22                   “(C) In-network versus out of network re-  
23 ferrals.

24                   “(D) Quality ratings for the health care fa-  
25 cilities.

1           “(E) Regulation compliance violations, in-  
2           cluding dischargers for patients with Medicare  
3           or Medicaid coverage and total discharges per  
4           year.

5           “(F) Staffing levels and ratios.

6           “(G) Employee wages.

7           “(H) Hospital capacity, including number  
8           of beds.

9           “(2) REPORT.—After each analysis required  
10          under paragraph (1) is completed, the Comptroller  
11          General shall issue a report on all findings and con-  
12          clusions made in carrying out such analysis to the  
13          Congress, the Secretary of Health and Human Serv-  
14          ices, and the task force established under section 3  
15          of the Healthcare Ownership Transparency Act.

16          “(f) AUDITS.—The Secretary shall audit a random  
17          sample annually of applications submitted through the  
18          Provider Enrollment, Chain, and Ownership System as  
19          part of the enrollment and revalidation of enrollment proc-  
20          esses under title XVIII to verify compliance with the re-  
21          quirements of this section and accuracy of information  
22          submitted pursuant to this section.

23          “(g) DEFINITIONS.—In this section:

24                 “(1) AFFILIATE.—The term ‘affiliate’ means—

1           “(A) a person that directly or indirectly  
2 owns, controls, or holds with power to vote, 20  
3 percent or more of the outstanding voting secu-  
4 rities of another entity, other than a person  
5 that holds such securities—

6                   “(i) in a fiduciary or agency capacity  
7 without sole discretionary power to vote  
8 such securities; or

9                   “(ii) solely to secure a debt, if such  
10 entity has not in fact exercised such power  
11 to vote;

12           “(B) a corporation 20 percent or more of  
13 whose outstanding voting securities are directly  
14 or indirectly owned, controlled, or held with  
15 power to vote, by another entity (referred to in  
16 this subparagraph as a ‘covered entity’), or by  
17 an entity that directly or indirectly owns, con-  
18 trols, or holds with power to vote, 20 percent or  
19 more of the outstanding voting securities of the  
20 covered entity, other than an entity that holds  
21 such securities—

22                   “(i) in a fiduciary or agency capacity  
23 without sole discretionary power to vote  
24 such securities; or

1           “(ii) solely to secure a debt, if such  
2           entity has not in fact exercised such power  
3           to vote;

4           “(C) a person whose business is operated  
5           under a lease or operating agreement by an-  
6           other entity, or person substantially all of whose  
7           property is operated under an operating agree-  
8           ment with that other entity; or

9           “(D) an entity that operates the business  
10          or substantially all of the property of another  
11          entity under a lease or operating agreement.

12          “(2) CONTROL PERSON.—The term ‘control  
13          person’—

14                 “(A) means a person that directly or indi-  
15                 rectly owns, controls, or holds—

16                         “(i) the power to vote more than 20  
17                         percent of any class of voting securities of  
18                         a covered firm; or

19                         “(ii) any lesser percentage of any  
20                         class of voting securities of a covered firm  
21                         that is sufficient to give the ability to di-  
22                         rect the actions of the covered firm; and

23                 “(B) does not include a person that—

24                         “(i) holds the voting interests of a  
25                         covered firm solely—

1                   “(I) in a fiduciary or agency ca-  
2                   pacity without sole discretionary  
3                   power to vote the securities; or

4                   “(II) to secure a debt, if the per-  
5                   son has not exercised the power to  
6                   vote; or

7                   “(ii)(I) is a limited partner with re-  
8                   spect to a person described in subpara-  
9                   graph (A) that is a partnership; and

10                   “(II) does not participate in the direc-  
11                   tion of the management or policy of the  
12                   covered firm.

13                   “(3) CORPORATION.—The term ‘corporation’  
14                   means—

15                   “(A) a joint-stock company;

16                   “(B) a company or partnership association  
17                   organized under a law that makes only the cap-  
18                   ital subscribed or callable up to a specified  
19                   amount responsible for the debts of the associa-  
20                   tion, including a limited partnership and a lim-  
21                   ited liability company;

22                   “(C) a trust; and

23                   “(D) an association having a power or  
24                   privilege that a private corporation, but not an  
25                   individual or a partnership, possesses.

1           “(4) COVERED FIRM.—The term ‘covered firm’  
2 means a corporation that is—

3           “(A) a provider of services or supplier that  
4 meets all applicable requirements under title  
5 XVIII for participating in the Medicare pro-  
6 gram under such title; or

7           “(B) any other person or entity who may  
8 receive reimbursements, payments, or other  
9 funds from the Centers for Medicare & Med-  
10 icaid Services.

11           “(5) PRIVATE EQUITY FUND.—The term ‘pri-  
12 vate equity fund’ means—

13           “(A)(i) a company or partnership that  
14 would be considered an investment company  
15 under section 3 of the Investment Company Act  
16 of 1940 (15 U.S.C. 80a–3) but for the applica-  
17 tion of paragraph (1) or (7) of subsection (c)  
18 of such section 3;

19           “(ii) a venture capital fund, as defined  
20 under section 275.203(l)–1 of title 17, Code of  
21 Federal Regulations; or

22           “(iii) a sovereign wealth fund; and

23           “(B) directly, or through an affiliate, acts  
24 as a control person.”.

1 (b) EXCLUSION FROM PARTICIPATION UNDER MEDI-  
 2 CARE.—Section 1128(b) of the Social Security Act (42  
 3 U.S.C. 1320a–7(b)) is amended by adding at the end the  
 4 following new paragraph:

5 “(18) FAILURE TO DISCLOSE CERTAIN PECOS  
 6 INFORMATION.—With respect to exclusion pursuant  
 7 to this subsection from participation in the Medicare  
 8 program under title XVIII, any entity to which sec-  
 9 tion 1150C applies that did not fully and accurately  
 10 make any disclosure required by such section.”.

11 **SEC. 3. TASK FORCE TO ANALYZE AND PROVIDE REC-**  
 12 **COMMENDATIONS ON THE ROLE OF PRIVATE**  
 13 **EQUITY AND CONSOLIDATION IN HEALTH**  
 14 **CARE.**

15 (a) ESTABLISHMENT.—The Secretary of Health and  
 16 Human Services shall establish and operate a task force  
 17 to address and limit the role of private equity and consoli-  
 18 dation in healthcare (the “Task Force”).

19 (b) COMPOSITION.—

20 (1) CHAIR.—The Secretary of Health and  
 21 Human Services shall chair the Task Force.

22 (2) MEMBERS.—The Secretary shall appoint  
 23 the members of the Task Force from among the fol-  
 24 lowing:



1 (A) Academic experts and researchers with  
2 expertise on—

3 (i) the role of private equity in  
4 healthcare; and

5 (ii) the impact of mergers and acquisi-  
6 tions in healthcare on costs and patients.

7 (B) Representatives from organizations fo-  
8 cused on consumer protection, antitrust, patient  
9 advocacy, and worker advocacy.

10 (C) Hospital and health care staff.

11 (D) Patients.

12 (3) ADVISORY MEMBERS.—In addition to the  
13 members described under paragraph (2), the chair-  
14 man of the Federal Trade Commission and the At-  
15 torney General shall serve as advisory members of  
16 the Task Force.

17 (4) MEMBER APPOINTMENT.—Not later than  
18 60 days after the receipt of the first report issued  
19 by the Comptroller General of the United States  
20 under section 1150C of the Social Security Act, the  
21 Secretary of Health and Human Services shall ap-  
22 point the members of the Task Force—

23 (A) in accordance with paragraph (2); and

24 (B) using a competitive application proc-  
25 ess.

1           (c) RECOMMENDATIONS.—The Task Force shall,  
2 based on the results of such study and the report issued  
3 by the Comptroller General of the United States under  
4 section 1150C of the Social Security Act identify best  
5 practices (and for purposes of subsection (d) develop rec-  
6 ommendations) for limiting the role of private equity in  
7 health care, taking into account the implications on health  
8 outcomes and staff working conditions.

9           (d) REPORT.—Not later than 6 months after the date  
10 of the first report issued by the Comptroller General of  
11 the United States under section 1150C of the Social Secu-  
12 rity Act, and every 6 months thereafter, the Secretary of  
13 Health and Human Services shall submit to Congress a  
14 report—

15               (1) on the recommendations developed sub-  
16               section (c); and

17               (2) that includes regulatory and legislative rec-  
18               ommendations to address any adverse effects of  
19               health care consolidation and private equity’s in-  
20               volvement in health care.

21           (e) MORATORIUM.—

22               (1) IN GENERAL.—The Secretary of Health and  
23               Human Services may prohibit a private equity fund  
24               from purchasing voting securities of a covered firm,  
25               and may prohibit any merger or acquisition that

1 would result in a private equity fund gaining control  
2 of voting securities of a covered firm, until the date  
3 on which the Secretary determines that the Task  
4 Force has had sufficient time to study and identify  
5 whether abuses are taking place in specific health  
6 care sectors or by health care entities related to  
7 price gauging, understaffing, regulation compliance  
8 violations, or such other metrics as the Secretary  
9 may determinate appropriate.

10 (2) DEFINITIONS.—In this subsection:

11 (A) COVERED FIRM.—The term “covered  
12 firm” has the meaning given that term under  
13 section 1150C(g) of the Social Security Act.

14 (B) PRIVATE EQUITY FUND.—The term  
15 “private equity fund” means—

16 (i) a company or partnership that  
17 would be considered an investment com-  
18 pany under section 3 of the Investment  
19 Company Act of 1940 (15 U.S.C. 80a–3)  
20 but for the application of paragraph (1) or  
21 (7) of subsection (c) of such section 3;

22 (ii) a venture capital fund, as defined  
23 under section 275.203(l)–1 of title 17, Code  
24 of Federal Regulations; and

1

(iii) a sovereign wealth fund.

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