

## The Break Up Big Medicine Act

### Senator Elizabeth Warren and Senator Josh Hawley

Giant health care conglomerates dominate the American health care system. These corporate entities are often vertically integrated, meaning one company can own or control every part of the health care supply chain—from health insurance companies and pharmacy benefit managers (PBMs) to pharmacists and physicians. By controlling both the company that pays for health care services and also the entity that *sets the prices* for those health care services (e.g., a health insurance company and a doctor's office), these health care conglomerates may be steering business to their own providers, evading laws intended to rein in corporate profiteering, or using physicians they employ to boost government payments to their insurance arms. In a nutshell, these health care giants may have successfully manipulated the health care system to squash competition and enrich themselves, while forcing patients and taxpayers to pay more.

Just how big of a problem is this? The largest insurance conglomerates are also some of the largest employers of physicians in the country. The three largest PBMs—middlemen between insurance companies and pharmacies—manage 80% of prescription drug claims, and are each owned by a company that *also* owns a health insurance company and a pharmacy chain. At the same time, just three prescription drug wholesalers control 98% of U.S. drug distribution, and have been busy acquiring companies that purchase and prescribe prescription drugs like specialty medical practices.

This not only harms patients and taxpayers, but has also left independent doctors and pharmacists unable to compete—nearly 4,000 independent pharmacies have closed since 2019, and almost 80 percent of physicians now work for a corporate parent.

The *Break Up Big Medicine Act* addresses these structural conflicts of interest, which allow corporate giants to put profits over the interests of patients, taxpayers, employers, and independent providers. The legislation will:

- Prohibit a parent company from owning a medical provider or management services organization **and** a PBM or an insurer;
- Prohibit a parent company of a prescription drug or medical device wholesaler from owning a medical provider or management services organization;
- Require that a company in violation of these provisions come into compliance within one year of the bill's enactment;
- Create automatic penalties if a company fails to comply in a timely manner, including disgorgement of profits and forced sales of assets;
- Enable the Federal Trade Commission (FTC), Department of Health and Human Services, Department of Justice (DOJ), state attorneys general, and private parties to bring lawsuits against violators; and
- Allow the FTC and DOJ to review and block future actions that would recreate the conflicts of interest prevented by the bill.

There is clear precedent for government prohibitions on joint ownership to protect consumers and promote competition, including in the railroad and banking industries. This bill extends the structural separation provisions of Senator Warren and Senator Hawley's *Patients Before Monopolies Act* to additional lines of business, including insurers that own medical providers and medical wholesalers that own specialty providers.