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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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April 1, 2024

Marc Rowan
Chief Executive Officer
Apollo Global Management
9 West 57th Street, 42nd Floor
New York, NY 10019

David M. Dill
Chairman and Chief Executive Officer
Lifepoint Health
330 Seven Springs Way
Brentwood, TN 37027

Dear Mr. Rowan and Mr. Dill:

Pursuant to the authority under Senate Rule XXV of the Standing Rules of the Senate and Senate Resolution 59, Section 12, I am writing to request documents and information regarding Apollo Global Management’s (“Apollo”) ownership of Tennessee-based health system Lifepoint Health, Inc. (“Lifepoint”), Lifepoint’s operation, management, and staffing of UP Health System (“UPHS”) Marquette, a Level II trauma center in Marquette, Michigan, and other practices impacting patient care and treatment.

My staff have spoken with over 40 emergency medicine physicians across the country who have raised substantial concerns regarding patient safety, patient care, emergency department staffing, the corporate practice of medicine, restrictive contracting practices, physician clinical independence, unlawful retaliatory actions, improper billing, and anticompetitive practices at private equity-owned hospitals and private equity-owned contract management groups (commonly known as staffing companies).¹ I am concerned by the risks these physicians have raised and their potential impact on patients and families, as well as the homeland security implications, such as the ability of emergency departments to respond to a mass casualty event, terrorist attack, pandemic, or other emergency that would require treating high volumes of patients. As such, I am seeking additional information regarding private equity

¹ Senate Homeland Security and Governmental Affairs Committee Majority Staff interviews with emergency medicine physicians (Sept. 2023 – Mar. 2024) (on file with Committee).

ownership and control of hospital emergency departments across the country and the potential impacts on patient care and emergency preparedness.²

While these issues are not limited to private equity, they are exacerbated by the private equity business model, which hinges on highly leveraged debt, little equity, and the need to obtain outsized returns within a limited time.³ Data on private equity ownership is largely nontransparent.⁴ However, publicly available information suggests over a quarter of hospitals that serve rural populations are owned or controlled by private equity.⁵

Financial instability and bankruptcies by private equity-owned companies have had devastating impacts on communities and patient care.⁶ Compared to other for-profit companies, private equity-owned companies are saddled with debt and more likely to file for bankruptcy.⁷ The four largest emergency medicine staffing companies are owned or controlled by private equity firms.⁸ Of these companies, Envision Healthcare has filed for bankruptcy within the past

² Private equity ownership in emergency medicine can take different forms, including private equity firm ownership of the entire hospital, ownership of the contract management group that staffs the emergency department, or a combination of the two.

³ See, e.g. Eileen Appelbaum and Rosemary Batt, *A Primer on Private Equity at Work: Management, Employment, and Sustainability*, Center for Economic and Policy Research (Feb. 2012); Joseph D. Bruch, et al., *Changes in Hospital Income, Use, and Quality Associated With Private Equity Acquisition*, JAMA Internal Medicine (Nov. 2020); Commonwealth Fund, *Private Equity's Role in Health Care* (Nov. 17, 2023) (<https://www.commonwealthfund.org/publications/explainer/2023/nov/private-equity-role-health-care>).

⁴ See, e.g. The Medicare Payment Advisory Commission (MEDPAC), *Report to the Congress: Medicare and the Health Care Delivery System*, at 81 (June 2021) (finding that “understanding which individuals or entities own a Medicare provider and their track record of operations could help to improve oversight and safeguard patient care . . . [and] one particular obstacle is capturing accurate ownership data for providers (such as nursing homes and some hospitals) that are part of complex corporate structures with multiple levels and subsidiaries,” noting “CMS’s ownership data typically do not indicate a parent organization atop a hierarchy of legal entities”); Anaeze C. Offodile II, et al., *Private Equity Investments In Health Care: An Overview of Hospital And Health System Leveraged Buyouts, 2003-17*, Health Affairs (May 2021) (noting limitations in the study’s data collection because “assets controlled by private equity firms are privately held and therefore do not have consistent reporting requirements over time”).

⁵ Private Equity Stakeholder Project, Private Equity Hospital Tracker (<https://pestakeholder.org/private-equity-hospital-tracker/>) (accessed Mar. 6, 2024).

⁶ See, e.g., *Massachusetts Wakes Up to a Hospital Nightmare*, The American Prospect (Jan. 26, 2024) (<https://prospect.org/health/2024-01-26-massachusetts-hospital-nightmare-steward-health/>); *Private Equity Is No Longer a Reliable Last Resort for Troubled Hospitals*, Bloomberg (Sept. 12, 2023) (<https://www.bloomberg.com/news/articles/2023-09-12/troubled-pennsylvania-hospital-reveals-failure-of-private-equity-deals?embedded-checkout=true>).

⁷ Brian Ayash and Mahdi Rastad, *Leveraged Buyouts and Financial Distress* (July 22, 2019). In a 2022 report, Moody’s Investor Service found that nearly 90 percent of health care companies rated at higher risk of default are owned by private equity, noting financial sponsors have aggressively consolidated the emergency medicine sector, among others. See Moody’s Investors Service, *Credit stress is rising, setting the stage for more downgrades and defaults* (Dec. 12, 2022) (stating “nearly 90 percent of healthcare companies rated B3 negative or below are owned by private equity”).

⁸ IvyClinicians, *2023 State of the Emergency Medicine Employer Market* (Feb. 2023).

year, TeamHealth has a payment of over a billion dollars due this year, and US Acute Care Solutions (USACS) is facing a forced sale if it is unable to pay its private equity investors by 2026.⁹ An additional private equity-owned staffing company, American Physician Partners, which had over 150 contracts with emergency departments across the country, abruptly ceased operations in July 2023 and subsequently filed for bankruptcy two months later.¹⁰ This presents particular concern with respect to private equity-owned emergency department staffing companies throughout the country. While private equity firms that are publicly traded have an obligation to their investors, physicians have a duty to serve the best interest of their patients, and these two duties may conflict.

In 2018, Apollo acquired Lifepoint for \$5.6 billion and took the previously publicly traded company private.¹¹ Apollo funded this acquisition by committing “up to \$1 billion” in equity from its own funds and “up to \$4.975 billion” in debt financing from a “consortia of financial institutions.”¹² Lifepoint, headquartered in Brentwood, Tennessee, currently owns and operates a number of facilities, including acute care, behavioral health, and rehabilitation hospitals, among other health care services.¹³ Lifepoint currently owns more than 60 acute care

⁹ *Envision Healthcare officially files for Chapter 11 bankruptcy*, Fierce Healthcare (May 15, 2023) (<https://www.fiercehealthcare.com/providers/envision-healthcare-likely-file-chapter-11-bankruptcy-wsj>); *Blackstone’s TeamHealth Weighs Debt Proposals, With \$1 Billion in Loans Coming Due*, Wall Street Journal (June 7, 2023) (<https://www.wsj.com/articles/blackstones-teamhealth-weighs-debt-proposals-with-1-billion-in-loans-coming-due-6959cec5>); Moody’s Investors Services, *Moody’s downgrades U.S. Acute Care Solutions, LLC’s CFR to B3 Report from B2, outlook stable* (Sept. 23, 2023); Moody’s Investors Services, *Moody’s affirms U.S. Acute Care Solutions, LLC’s B2 CFR, outlook stable* (Jan. 19, 2022). In 2021, Apollo Global Management invested \$470 million in USACS, a physician staffing company; however, if USACS is “unable to redeem the preferred shares” by March 1, 2026, Apollo “has the right to request full redemption of its preferred share investment” and “can force the sale of the company.” *Id.*

¹⁰ *Hospital, ED staffer American Physician Partners files for Chapter 11 bankruptcy*, Fierce Healthcare (Sept. 20, 2023) (<https://www.fiercehealthcare.com/providers/hospital-ed-staffer-american-physician-partners-files-chapter-11-bankruptcy>).

¹¹ *LifePoint acquired by Apollo for \$5.6B*, HealthcareDive (July 23, 2018) (<https://www.healthcaredive.com/news/lifepoint-acquired-by-apollo-for-56b/528376/>). On July 22, 2018, Lifepoint Health, Inc. merged with RegionalCare Hospital Partners Holdings, Inc., which is owned by funds managed by Apollo Global Management. See LifePoint Health, Inc., *Securities and Exchange Commission Form 8-K* (July 23, 2018) (https://www.sec.gov/Archives/edgar/data/1301611/000110465918046550/a18-17580_18k.htm); LifePoint Health, Inc., RegionalCare Hospital Partners Holdings, Inc., and Legend Merger Sub, Inc., *Agreement and Plan of Merger* (July 22, 2018) (https://www.sec.gov/Archives/edgar/data/1301611/000110465918046550/a18-17580_1ex2d1.htm).

¹² LifePoint Health, Inc., *Securities and Exchange Commission Schedule 14A* (Aug. 23, 2018) (https://www.sec.gov/Archives/edgar/data/1301611/000104746918005753/a2236545zprem14a.htm#dk75301_financing_of_the_merger). Apollo secured debt financing from the following creditors: “Citigroup Global Markets Inc., Barclays Bank PLC, Royal Bank of Canada, RBC Capital Markets, Credit Suisse Loan Funding LLC, Credit Suisse AG, Deutsche Bank AG New York Branch, Deutsche Bank AG Cayman Islands Branch, UBS AG, Stamford Branch, PSP Investments Credit USA LLC and an affiliate of Qatar Investment Authority.”

¹³ Lifepoint, *Who we are* (<https://lifepointhealth.net/who-we-are>) (accessed Mar. 7, 2024); Prior to Apollo’s acquisition, Lifepoint operated 71 hospital facilities in 22 states, generating anywhere between \$5.2 and \$6.2 billion in annual revenue between 2015-2017. See LifePoint Health, Inc., *Securities and Exchange Commission Form 10-K*

hospitals and promotes that it “provide[s] high quality care and serve[s] as economic and philanthropic leaders in their communities.”¹⁴

As part of Apollo’s 2018 acquisition of Lifepoint, it acquired UPHS Marquette, the only Level II Trauma Center and Neonatal Intensive Care Unit in Michigan’s Upper Peninsula, along with two other hospitals (UPHS Portage and UPHS Bell) in the region.¹⁵ Apollo’s acquisition of Lifepoint also included a joint venture known as Duke Lifepoint Healthcare, which was originally established in 2011 “to bring high-quality health care services to [its collaborating] community hospitals.”¹⁶ According to Duke Lifepoint Healthcare’s 2022 Community Impact Report, its participating hospitals “uniquely benefit from Duke’s patient safety and clinical quality expertise.”¹⁷ However, my staff have spoken with several physicians who have worked directly for UPHS Marquette, who reported that they have yet to see any meaningful collaboration with Duke.

Majority Committee staff spoke with emergency medicine physicians, including who have worked at UPHS Marquette’s emergency department, who raised serious concerns about staffing levels. For example, understaffing throughout the hospital has reportedly resulted in a number of patient safety concerns, including patients unnecessarily boarded in the emergency department (which can compromise needed care), patients experiencing long wait times to be seen in the emergency room, and emergency room nurses and physicians forced to care for non-emergent patients in addition to emergencies. According to interviews conducted by Majority Committee staff, cuts have not been limited to health care professionals, but also to other critical staff, including cleaning and maintenance services, resulting in unclean conditions and medical staff having to spend time cleaning rooms. Additionally, I am troubled that certain contracting practices with physicians, such as non-compete clauses, may impede physicians’ ability to raise concerns without fear of retaliation and result in physicians having to work hours away if they decide to leave UPHS Marquette.¹⁸

(Feb. 23, 2018) (<https://www.sec.gov/Archives/edgar/data/1301611/000130161118000005/lpnt-20171231x10k.htm>).

¹⁴ See Moody’s Investors Services, *Moody’s assigns a B2 rating to Lifepoint’s new senior secured notes* (Sept. 29, 2023); Lifepoint, *Acute Care* (<https://lifepointhealth.net/acute-care>) (accessed Mar. 7, 2024).

¹⁵ UP Health System, *About Us* (<https://www.uphealthsystem.com/about>) (accessed Mar. 7, 2024).

¹⁶ Lifepoint, *Our 2022 Community Impact for Duke LifePoint Healthcare* (https://lifepointhealth.net/assets/uploads/HIGHRES_CBR_YR2022_Duke_Hospitals_ajs_090623.pdf) (accessed Mar. 7, 2024). Hospitals participating in this joint venture include one in Michigan, three in Pennsylvania, one in Virginia, and ten in North Carolina.

¹⁷ Lifepoint, *Our 2022 Community Impact for Duke LifePoint Healthcare* (https://lifepointhealth.net/assets/uploads/HIGHRES_CBR_YR2022_Duke_Hospitals_ajs_090623.pdf) (accessed Mar. 7, 2024).

¹⁸ See Senate Committee on Homeland Security and Governmental Affairs Majority Staff interviews with emergency medicine physicians (Sept. 2023 – Mar. 2024) (on file with Committee).

UPHS Marquette is a critical part of the Upper Peninsula community and serves an essential role as its only Level II Trauma Center. However, I am concerned that these and related issues raise the risk that Apollo and Lifepoint business decisions may compromise the UPHS Marquette emergency department's ability to provide critical patient care and respond to a mass casualty event, pandemic, or other event that would require the treatment of high volumes of patients.

In light of the issues identified above and to better understand Apollo, Lifepoint, and Lifepoint-owned or controlled entities, subsidiaries, or affiliates' actions with respect to management, control, and care at UPHS Marquette's emergency department, please provide the following documents and information. Many physicians also told the Committee they could not voluntarily discuss their patient safety and staffing concerns out of fear for their livelihoods. As such, additional areas of focus may be necessary in the near future.

Apollo Global Management

1. Please provide Apollo Global Management's ("Apollo") acquisition agreement of Lifepoint, any leasing documents related to UPHS Marquette, and the following information.
 - a. List the amount of equity invested and the amount of debt placed on Lifepoint as part of Apollo's 2018 acquisition of Lifepoint.
 - b. For each year since January 1, 2018, list the amount of dividends or share buybacks Lifepoint, or a Lifepoint affiliate, paid to Apollo.
 - c. For each year since January 1, 2018, list the amount of debt placed on Lifepoint.
 - d. Please indicate whether Apollo receives any fees, including management fees, from Lifepoint. If yes, for each year since 2018, please list the fees received and the reason for those fees.
2. For each year from 2018 through the present, please identify the number of seats and the names and job titles of individuals associated with Apollo on Lifepoint's Board of Directors. If no individual at or associated with Apollo sat on Lifepoint's Board of Directors in any given year, please indicate so.
3. For the period January 1, 2021 through January 1, 2024, please provide:
 - a. Any Apollo Board of Directors meeting agenda and minutes discussing or related to Lifepoint, including any attachments, exhibits, or supplemental material.

- b. Any Apollo Board of Directors' committee or subcommittee meeting agenda and minutes discussing or related to Lifepoint, including any attachments, exhibits, or supplemental material.
- c. A list of Apollo senior employees, senior consultants, experts, managers, or individuals who advise or advised Lifepoint on matters relating to Lifepoint's hospital staffing, including corporate strategy, growth, debt management, or operational efficiencies.
- d. Any reports or presentations (including pitch decks, slide decks, or playbooks) discussing or relating to Lifepoint's hospital staffing, including corporate strategy, growth, debt management, or operational efficiencies.

Lifepoint

- 4. Please provide Lifepoint's acquisition agreement of UPHS Marquette and any related leasing documents.
- 5. For the period January 1, 2022 through March 1, 2024, please provide all communications related to the UPHS Marquette's emergency department for the topics listed below and for the following custodians: Lifepoint-affiliated emergency medicine professionals,¹⁹ medical directors, Lifepoint-affiliated leadership and administration, or Members of Lifepoint's Board of Directors.
 - a. Physician, advanced practice provider (APP), or nursing staffing, including: requests for additional staffing, lack of physician shift overlap, single physician coverage, lean or efficient staffing models, staff turnover, removing physicians from a schedule, or removing APPs from a schedule.
 - b. Patient safety, including APP scope and care, treating patients in hallways or waiting rooms, emergency room wait times, "near misses," or issues related to patient boarding in the emergency department.
 - c. Patient admissions, including patients not meeting inpatient, observation, or billing criteria.
 - d. Code trauma, code sepsis, geri trauma, cardiac arrest, stroke activation, trauma activation charge, sepsis (or other activation) power plan, or patient critical care levels (1-5).

¹⁹ "Emergency medicine professionals" includes physicians, nurse practitioners, physician assistants, physician associates, and nurses who staff the UPHS Marquette emergency department.

- e. Downcoding, clinical queries to physicians regarding billing or coding, critical care attestation, patient counseling on smoking cessation or other preventative care measures, or inclusion of protein calorie malnutrition diagnoses.
 - f. Physician productivity or efficiency, Relative Value Units (RVUs) including RVUs generated per hour, patients per hour (PPH) productivity, performance incentives, or compensation, such as metric-based compensation, bonus compensation, or related calculations.
 - g. Time-related metrics, including Left Without Being Seen (LWBS), Greet to First Clinical Orders, Door to Doctor, Door to Disposition, Door to Discharge, or Door to Inpatient Admission.
 - h. Billing targets or loss of revenue.
6. For the period January 1, 2021 through present, please provide:
- a. A list of the members of Lifepoint's Board of Directors each year.
 - b. Any compensation any member of Lifepoint's Board of Directors received from Apollo (or an Apollo affiliate), the name of the Board Member, and the amount of compensation received.
 - c. Any Lifepoint Board of Directors meeting agenda and minutes discussing or related to hospital staffing, including any attachment, exhibit, or supplemental material.
 - d. Any meeting minutes or other documents from meetings held by Lifepoint or UPHS Marquette Hospital administration, including any meetings with Lifepoint-affiliated emergency medicine physicians who work in the UPHS Marquette Hospital emergency department relating to hospital staffing, including corporate strategy, growth, debt management, or operational efficiencies.
 - e. Any final reports or presentations (including pitch decks, slide decks, or playbooks) discussing or relating to Lifepoint's hospital staffing, including corporate strategy, growth, debt management, or operational efficiencies.
 - f. Any internal investigations, root cause analyses, peer reviews, or other internal reviews related to patient outcomes, misdiagnoses, or complaints associated with the UPHS Marquette Hospital emergency department.
7. List and provide the corresponding contracts/management services agreements for any subsidiaries, entities, or other affiliates owned or controlled by Lifepoint or any

Lifepoint-controlled subsidiary, entity, or other affiliate used to staff, manage, contract, or otherwise do business with UPHS Marquette Hospital.

8. Please provide any written Lifepoint policies related to the following topics. If no such policies exist, please indicate that.
 - a. Emergency department staffing
 - b. Physician clinical autonomy
 - c. Raising and reporting patient safety or care concerns
 - d. Evaluation of physician performance
 - e. Clinical protocols (such as what tests, codes, or treatments to initiate)
 - f. Billing, including physicians' ability (or lack thereof) to access data and information on billing associated with their National Provider Identifier
9. Please provide Lifepoint's (or any affiliate entities') 2023 contracts, including any addenda, with the emergency medicine physicians who worked in UPHS Marquette Hospital's emergency department, with any personal information redacted.
10. For the period January 1, 2024 through present, please provide:
 - a. The emergency medicine physician and APP staffing schedules for UPHS Marquette Hospital's emergency department, showing the number of emergency medicine physician and APP coverage hours for each day.
 - b. The daily patient volumes in UPHS Marquette Hospital's emergency department.
11. For the period January 1, 2023, through January 1, 2024, please provide any physician productivity reports, bonus metric reports, or related physician metric-based feedback, for any emergency medicine physicians who worked in UPHS Marquette Hospital's emergency department.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV (k)(2)(B) of the Standing Rules of the Senate to investigate matters that aid the Committee in "studying the efficiency, economy, and effectiveness of all agencies and departments of the Government."²⁰ Under Senate Resolution 59, Sec. 12(e)(2), of the 118th Congress, the

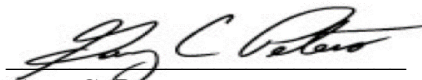
²⁰ S. Rule XXV(k)(2)(B).

Committee’s investigative duties “shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.”²¹

Please provide responsive documents and information as soon as possible, but no later than April 17, 2024. Additionally, please arrange to meet with the Committee as soon as possible, but no later than May 3, 2024. Please see attachment A to this letter for a description of the documents and information covered by this request.

Thank you for your attention to this matter. Should you have any questions, please contact Megan Petry Edgette and Kevin McAloon of Chairman Peters’ staff at (202) 224-2627.

Sincerely,



Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs

²¹ S. Res. 59, Sec. 12(e)(2).