

# Health Care Cost Transparency Board meeting summary

February 9, 2024

Virtual meeting held electronically (Zoom) and in person at the Health Care Authority (HCA)  
10 a.m. – 3:30 p.m.

**Note:** this meeting was video recorded in its entirety. The recording and all materials provided to and considered by the Board is available on the [Health Care Cost Transparency Board webpage](#).

## Members present

Sue Birch, Chair  
Jane Beyer  
Eileen Cody  
Lois Cook  
Bianca Frogner  
Greg Marchand (remote)  
Mark Siegel  
Margaret Stanley (remote)  
Ingrid Ulrey  
Kim Wallace  
Carol Wilmes  
Edwin Wong

## Members absent

Jodi Joyce

## Call to order

Sue Birch, Board Chair, called the meeting to order at 10:02 a.m.

## Agenda items

### Welcoming remarks

Chair Sue Birch welcomed members of the Health Care Cost Transparency Board (the Board) to their in-person retreat. After conducting roll call, to recognize Black History Month, Chair Birch introduced a new book, *Blacks in Thurston County, Washington*, highlighting the stories and contributions of Black Washingtonians in the South Puget Sound. Members of Health Management Associates (HMA), Liz Arjun, Gary Cohen, and Craig Schneider, have been recently contracted to facilitate meetings and the decision-making of the Board. Finally, the agenda was reviewed and **approved unanimously**.

## Meeting summary review from the previous meeting

The Board **voted by consensus to adopt** the December 2023 meeting summary.

## Washington Health Care Affordability Reports

### Office of the Insurance Commissioner's Preliminary Report

Jane Beyer, Senior Health Policy Advisor, Office of the Insurance Commissioner (OIC)

In the 2023 budget, the Legislature directed the OIC to evaluate the structure and business of the health care industry in Washington to improve affordability. OIC's preliminary report, produced by HMA, includes information about vertical and horizontal consolidation of health insurers, hospitals, health care providers, and private equity (PE) investment trends. Survey data indicates that 81% of Washingtonians are worried about affording health care in the future. Employers struggle to provide health care for their workforce, and more than 20% of the Washington general fund budget is spent on health care.

There is vertical integration among insurers where insurers are actively purchasing physician groups and clinics. Private equity acquisitions are also a growing national trend. Between 2014 and 2019, there were 97 health care acquisitions in Washington State by PE firms operating across numerous states. A recent review of 55 studies found that PE ownership was most consistently associated with increased costs to patients/payers and mixed-to-harmful impacts on quality of care.

The OIC identified several affordability policy options, including cost growth benchmarks, and health insurance rate review with cost caps on specific services. Reinsurance programs implemented in other states have lowered premiums between 5%-38%. Other options include reference-based pricing, facility fee reform, medical loss ratio requirements, public option plans, and prescription drug pricing regulation. Next steps include discussing policy options with stakeholders and Legislators to identify which to investigate further, followed by an in-depth economic and actuarial analysis on selected policy options and key informant interviews. The OIC's final report is due August 1, 2024.

### Office of the Attorney General's Healthcare Affordability Preliminary Report

Kelly Richburg, Senior Health Policy Advisor, Office of the Attorney General (AGO)

The Attorney General's Office produced a preliminary report that examines the impact that consolidation and anticompetitive practices have on health care affordability by comparing what is done in Washington to what is done in other states. Consolidation of health care entities is associated with increased patient prices, but with no significant improvement in quality of care. Furthermore, it has historically led to suppression of wage growth and poorer working conditions for employees working in the health care sector. While Washington is able to review a wide variety of transactions to review harm to competitiveness, there is no consideration specific to affordability and no approval authority.

Since 2020, Washington requires 60-day notice of all health care mergers and acquisitions for review from the perspective of the federal Consumer Protection Act. This law covers hospital and provider networks with no minimum revenue threshold but does not cover physician groups with fewer than seven providers, does not consider quality or affordability impact, and has no public involvement. State Attorneys General in Massachusetts, California, and Oregon have more extensive powers to halt transactions, allow for public review, and impose conditions. In the current legislative session, [SB 5241](#), the Keep Our Care Act, seeks to expand transaction review and address certain anticompetitive contract clauses in Washington.

Board members discussed these reports, seeking clarification of the pace and longevity of health care consolidation in Washington. While specific analysis is still ongoing on the extent and impact, it has been reported that there has been a six-fold increase in PE acquisition nationally over the last ten years. The contents of SB5241 were discussed, noting that beyond affordability, transactions are assessed regarding access to reproductive, end-of-life, and gender-affirming care.

## Policy Discussion Panel

**David Seltz, Executive Director, Massachusetts Health Policy Commission (HPC)**

**Cory King, Acting Health Insurance Commissioner, Rhode Island Office of the Health Insurance Commissioner (OHIC)**

**Sarah Bartelmann, Cost Growth Target & Health Care Market Oversight Program Manager, Oregon Health Authority (OHA)**

Beginning in 2006, Massachusetts (MA) passed legislation with the goal of universal coverage, and shortly thereafter moved to consider cost containment as an important focus. Premiums, out-of-pocket costs, and deductibles were a concern for both employers and consumers. In 2012, the state established the first program to set a health care spending benchmark. Working with the state data repository, the Center for Health Information and Analysis, spending growth and health care quality are investigated to craft and propose legislation to realize cost savings. The HPC is able to convene an annual Cost Trends Hearing to hear from health care CEOs regarding spending growth trends, monitors markets, and implement experimental policy programs to curb growth. Since the program's implementation, Massachusetts has realized rates of growth below the national average in eight of the nine years of monitoring, saving approximately \$8 billion over that span.

For the past 20 years, Rhode Island's Office of the Insurance Commissioner (RI-OIC) has housed a dedicated Office of Health Insurance Commissioner (OHIC) charged with policy reform and regulatory enforcement of the health insurance industry. Insurance rate review is a significant portion of the office's work, with affordability and access integral to the process. While the HPC has a board of citizen experts which implement their benchmark, the RI-OIC has a steering committee of insurers and stakeholders working to contain cost growth, as well as study value-based payment and data use methodology. The steering committee is a public-private partnership, so agreeing on goals and strategy can be challenging. Policy discussions happen in an open forum. OHIC has in place numerous levers to control cost growth including insurance plan rate review, a hospital price growth cap, and a primary care investment target. Public interactive dashboards, one-pager "data stories", and full reports are tools used to investigate and engage Rhode Islanders around issues of health care cost growth.

The Oregon Health Authority's Cost Growth Target & Health Care Market Oversight Program was modeled on much the same approaches pioneered by states like Massachusetts and Rhode Island. An advisory group comprised of 50% payer and provider membership helps craft policy proposals, and early on settled on value-based payment models to achieve control of cost growth. This evolved into the advanced value-based payment compact, which currently has 63 signatories representing 70% of covered lives in Oregon (OR). In the wake of the COVID-19 pandemic, the effectiveness of this voluntary approach is under discussion as compared to more direct, authoritative approaches to control cost. Initial work of the Pharmacy Drug Affordability Board and Transparency Board were not able to settle on specific policies in 2023 to curb drug costs, but efforts are ongoing. Factors holding back recommendations include a need for more data and subject matter expertise. Performance Improvement Plans (PIPs) and financial penalties for entities consistently missing the cost growth target are levers available to Oregon under current statute. Balancing issues of solvency with penalties levied to providers at meaningful levels is a challenge. Finally, oversight of mergers and acquisition is another power available to Oregon.

Discussion between members of the Board and the panel touched upon many subjects. Value-based payment and other cost-containment efforts face a difficult market landscape at the moment due to the pandemic and providers and payers lacking incentive to fundamentally change the system. It was noted that spending on primary care has been diminishing in recent years in opposition to the efforts of government entities in many states. A gap in transparency was identified in older cost-containment programs, where exits from insurance markets were not always understood in terms of reasoning, and sometimes were found to be examples of new models of mergers being utilized to avoid public scrutiny. PIP methodology was also discussed, comparing differences between how they are conceptualized and implemented in MA and OR. Massachusetts implemented their first PIP in 2022 for a large hospital system. The design of the plan involved many rounds of discussion and seems to be yielding promising results, saving up to \$180M over the course of 18 months. The Board discussed

efforts to improve interstate collaboration on cost growth work, including working with OR to synchronize on market review efforts for provider and payer entities which have footholds in both OR and Washington.

## Legislative Session Update

**Evan Klein, Special Assistant for Policy and Legislative Affairs, HCA**

**Mich'l Needham, Chief Policy Officer, HCA**

**Jane Beyer, Senior Health Policy Advisor, OIC**

**Ingrid Ulrey, Chief Executive Officer, Washington Health Benefit Exchange (HBE)**

The Washington Legislature is currently in the middle of a short 60-day session and a number of bills under consideration were reviewed. Firstly, [HB 1508](#), sponsored by Rep. Nicole Macri in the previous session, was meant to increase the enforcement authority of the Cost Board, but has been pared back in this session. No longer including language regarding the levying of penalties for missing cost growth benchmarks, the bill focuses on expanding the membership of the Advisory Committee on Providers and Carriers to include representation from consumers and labor. It would shift the Board's legislative report delivery from August to December and allow for public hearings about the findings. SB 5241 would establish a stronger regulatory review framework within the AGO for mergers and acquisitions, focusing on cost and coverage. [SB 5213](#) would look at pharmacy benefit managers from the standpoint of affordability. There are continuing legislative efforts around balance billing, behavioral health funding, and Apple Health (Medicaid) expansion.

Additional discussion was led by Jane Beyer, specifying that current legislative efforts around balance billing are honing in on ground ambulance services. Ensuring residential substance use treatment coverage is being worked on, with additional efforts to ensure mental health parity. Key legislation for the HBE has centered on a bill that works to improve access to plans with standardized administration, which have been shown to hold down costs to consumers.

## Policy Option Discussion to Lower Costs and Improve Affordability

**Liz Arjun, HMA**

**Gary Cohen, HMA**

A variety of policy options that the Board can evaluate fall on spectrums of complexity, impact, and timeline. To settle on policies that could ultimately be recommended to the Legislature, HMA facilitated a discussion of policy options and decision making with the Board. Options discussed include:

- Limiting Facility Fees
- Balance Billing Protections
- Restricting Anti-competitive Contracting
- Increased Hospital Price Transparency
- Community Benefit Transparency
- Mergers and Acquisition
- Limiting Out-of-Network Charges
- Strengthening Rate Review Authority
- Administrative Simplification
- Spread Pricing/Pharmacy Benefit Manager Reform
- Private Equity Purchasing of Health Care Providers
- Provider Rate Setting
- Price Growth Caps
- Global Budgets
- Reference-based Pricing
- Further Consolidate and Expand State Purchasing

*(Expected policy impacts are organized in a table at the end of this meeting summary)*

Approaching how to prioritize the policy options led to a good discussion of incremental change, equity, and what prioritization means. Factors of viability and impact include Employee Retirement Income Security Act of 1974 (ERISA) restrictions, legislative cycle, and whether options are already being considered and advocated for elsewhere at the state or national levels. True cost savings should be prioritized rather than cost shifting, and there was skepticism about the impact that consolidation review would have in Washington when the health care marketplace is already fairly consolidated. Ideally, the mix of policy options to investigate and consider over the next year would be comprised of a mix of short- and long-term and higher- and lower-complexity. After a round of voting personal preference by each member of the Board, **the policies agreed upon** were simplified, merged due to significant overlap, and tallied to four primary and two secondary focuses as follows:

Primary Focus

- Restricting Anti-competitive Contracting (7 votes)
- Limiting Facility Fees (8 votes)
- Private Equity Purchasing of Health Care Providers + Mergers and Acquisition (combined 7 votes)
- Provider Rate Setting + Price Growth Caps (combined 9 votes)

Secondary Focus

- Increased Hospital Price Transparency (4 votes)
- Community Benefit Transparency (4 votes)

Moving forward, analysis will be examined by the Board and support given to the efforts of other government agencies and Washington's [Universal Health Care Commission](#).

## Discussion of Committees, Charters, and Expectations

Liz Arjun, HMA

With the workplan for 2024 and policy preferences chosen, charters for the established committees of the Board can be created to ensure that meaningful work is being done to support decision making. Furthermore, board members were encouraged to step into leadership roles in the committees to help guide and align the work with the Board's goals and timeline. Those interested would be able to reach out to staff.

## Data Call 2024

Sheryll Namingit, Health Economics Research Manager, HCA

The call to carriers for aggregated data spanning from 2020 to 2022 is to be sent out on February 12, with responses expected within 60 days. Data is expected to be validated through July, followed by analysis of the data that will result in individual reports shared with carriers and providers. The final results will be presented to the Board by December, summarizing cost growth of these entities against the benchmark set in 2017 to 2019.

## Public comment

Chair Sue Birch called for comments from the public.

Drew Oliveira, the Executive Director of the Washington Health Alliance (WHA), provided an overview of the efforts of the organization, including supporting Primary Care and Alternative Payment Models. Investigating Fair Hospital/Facility Pricing and Pharmacy Costs will be key to their goals of championing high quality, affordable care in Washington.

Elizabeth Mitchell, CEO of Purchaser Business Group on Health and board member on the California Office of Health Care Affordability, spoke about early efforts to support health care affordability in California, including setting an initial cost growth benchmark. Support for Centers of Excellence and Primary Care have been early successes, holding down costs in both urban and rural locations.

Jed Shepherd of the Washington Medical Association extended thanks for the Board's prioritization of alleviating administrative burden in their efforts to control health care costs, noting that beyond higher costs, small practices encumbered by this burden have driven some of the consolidation discussed at the retreat.

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Written public comments can be found in the meeting materials.

## Adjournment

The meeting was adjourned at 3:15 p.m.

## Policy Options and Voting by the Board at the February Retreat

Policy	Magnitude of Impact	Complexity for Development & Implementation	Term of Goal	Current Policy Efforts Underway	Final Votes	Selected for Study
<b>Limiting Facility Fees</b>	Low to overall costs, High to purchases and consumers	Low	Short-term	Covered in OIC report, HB2378	8	<b>X</b>
<b>Balance Billing Protections</b>	Low to overall costs, High to purchases and consumers	Low to Medium	Short-term	SB5986, protecting consumers from out-of-network charges	0	
<b>Restricting Anti-competitive Clauses in Contracting</b>	Significant impact on costs and spending	Low to Medium	Short-term	AG's report and SB2066, Affordability through Provider contracting	7	<b>X</b>
<b>Increase Hospital Price Transparency</b>	Medium to consumers	Low to Medium	Short- to medium-term	Federal action needed, but CMS is reviewing	4	
<b>Community Benefit Transparency</b>	Medium to consumers, does not address costs	Low	Short- to medium-term	None	3	
<b>Merged</b>	<b>Mergers and Acquisition</b>	Significant	Medium-term	Covered in OIC report, and SB5241 Keep Our Care Act	7	<b>X</b>
	<b>Private Equity Purchasing of Health Care Providers</b>	Lower impact, does not address cost	Medium	Medium-term		
<b>Limiting Out-of-Network Charges</b>	Medium to cost, Significant to purchasers and consumers	Medium	Medium-term	Strengthens Balanced Billing efforts	2	
<b>Strengthening Rate Review Authority</b>	Medium impact on cost, medium to purchasers and consumers	Medium to High	Medium-term	Covered in OIC report	0	

	<b>Administrative Simplification</b>	Medium impact	Medium	Medium-term	Being studied by the Universal Health Care Commission, considered at state and federal level	3	
	<b>Spread Pricing/Pharmacy Benefit Manager Reform</b>	Medium to cost, Significant to purchasers and employers	Medium	Medium-term	SB5213, Studied by Prescription Drug Affordability Board	1	
Merged	<b>Provider Rate Setting</b>	Significant impact on costs and spending, potentially significant impact for purchasers and consumers	High	Longer-term	Included in OIC report	2	X
	<b>Price Growth Caps</b>	Significant impact on costs and spending, significant impact for purchasers and consumers	High	Longer-term	Included in OIC report, Cascade Care uses this mechanism	<u>+7</u> 9	
	<b>Global Budgets</b>	Significant impact on costs and spending	High	Longer-term	Included in OIC report	0	
	<b>Reference-based Pricing</b>	Significant impact on costs and spending	High	Longer-term	Included in OIC report	2	
	<b>Further Consolidate and Expand State Purchasing</b>	Significant impact on costs and spending	High	Longer-term	None	4	