News *From The States*

EVENING WRAP

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By Kate Queram

I have little left to pontificate on the subject of health care. You know it's a mess. I know it's a mess. Lawmakers know it's a mess. But they'll never fix it — not really — so instead we get endless "solutions" that don't fix anything and often create entirely new problems.

The Big Takeaway

Case in point: Private equity firms buying up hospitals, saddling them with debt, using the proceeds to pay off wealthy investors and then selling the properties, leaving communities to deal with the remnants. This has been a thing for at least two decades, but it's increased rapidly since 2012, both in spending and in scale. Private equity investors now own nearly 400 U.S. hospitals, accounting for roughly a third of the country's for-profit facilities, Stateline reported.

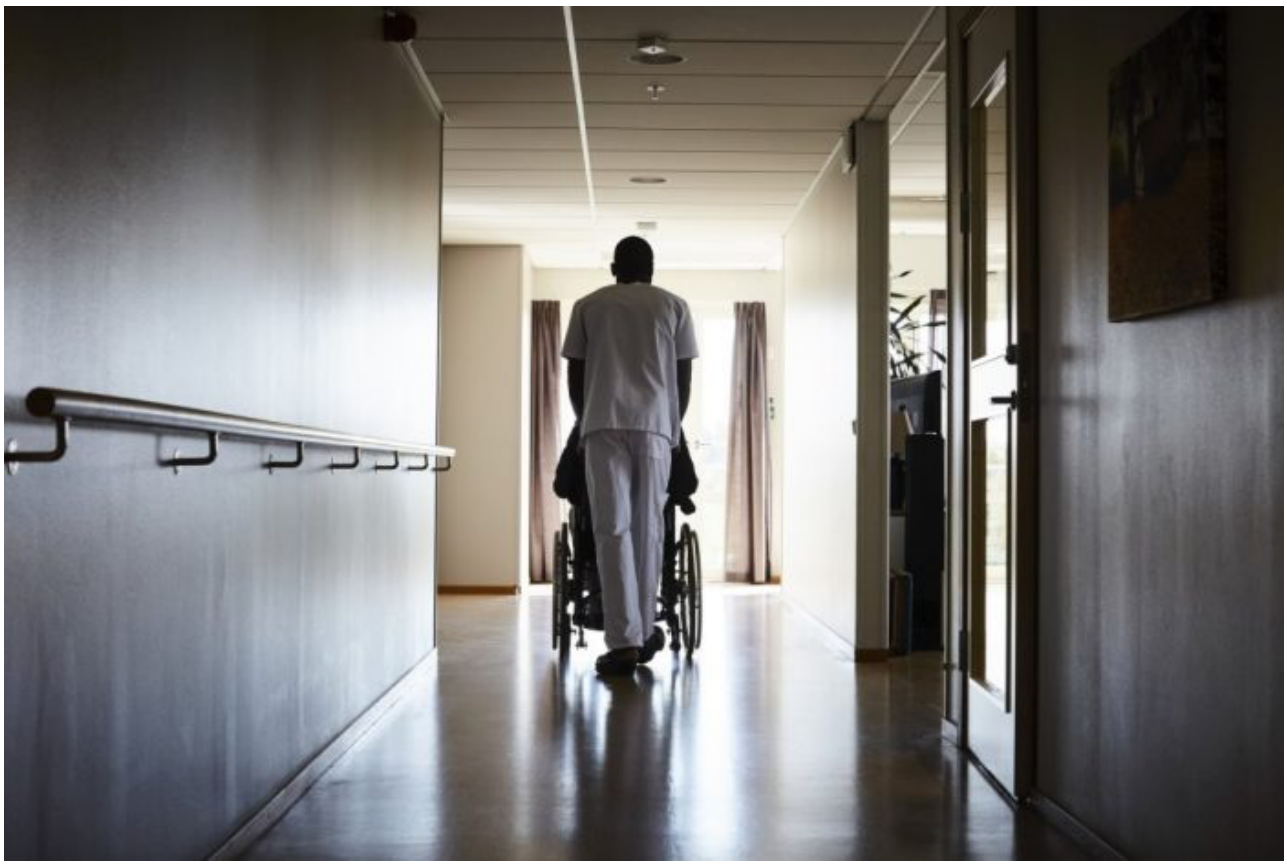
There's a 33% chance that bed is privately owned.
(Photo by Getty Images)

Supporters of private equity firms say the investments fill gaps in the health care system, providing funding for hospitals to upgrade their equipment and technology. But the truth is more complicated. Firms purchase controlling stakes in companies by pooling investments from a range of sources and then offload them years later, usually without reconciling the debt they've accrued. Hospitals are often forced to slash services and lay off employees to stay solvent. Others close permanently.

How that plays out depends largely on a state's ability to regulate the process. Private equity is a murky sector with complex structures and layered transactions that can be difficult for lawmakers and auditors to decipher. Without relevant state laws, it can be difficult for regulators to keep tabs on the industry at all, let alone step in to prevent exploitative deals.

The differences in state regulations were clear in 2019, when Prospect Medical Holdings, a for-profit hospital chain, sold property out from under its hospitals in California, Connecticut and Pennsylvania to a real estate investment trust for $1.55 billion. The trust then leased the property back to Prospect, forcing the hospitals to rent assets they used to own. The deal saddled one Pennsylvania

hospital with $35 million in yearly rent but allowed Prospect, then majority-owned by private equity firm Leonard Green & Partners, to pay off loan debts.



That'll be $35 million.
(Photo by Getty Images)

Within a year, the hospital chain was in financial distress. Leonard Green tried to jettison the company by selling its majority stake but was stalled in Rhode Island by a 1997 law requiring state approval for ownership changes. Officials ultimately approved the sale, but only after securing $80 million in escrow to cover the hospitals' expenses for five years.

Lawmakers took notice. Last year alone, 24 states enacted laws related to health system consolidation and competition. In December, the Biden administration announced new efforts to subject mergers and acquisitions to more scrutiny by federal agencies, and congressional lawmakers have asked current and former hospital owners to provide detailed information about their financial transactions as part of a bipartisan Senate investigation. It's progress, but none of it addresses the broken system that allows private equity firms to swoop in in the first place, according to Connecticut state Sen. Saud Anwar, a Democrat.

“While we need to make sure we restrict how these financial groups come into the health care world, we also have to make sure the alternative is functioning,” he said.

The system is definitely not functioning in Wisconsin, where Assembly Leader Robin Vos has refused to schedule a vote on a bill to extend Medicaid coverage for postpartum care because he, personally, objects to the idea of handing out “free coverage.” (Tell me you’re a Republican without telling me you’re a Republican.) Thursday marked 127 days for Vos’ one-man blockade, which began after the Senate approved the bill on a 32-1 vote in September, the Wisconsin Examiner reported.

Good luck with that.
(Photo by Getty Images)

And that’s quite long enough, according to Minority Leader Greta Neubauer.

“We are here calling on Speaker Vos to bring this bill to the floor and help address disparities and maternal outcomes in our state,” Neubauer, a Democrat, said during a press conference Wednesday. “Wisconsin must act so families in my district and across the state have the opportunity to access a crucial support system that will address the racial disparities brought to light by the Black maternal health crisis.”

States have been able to extend postpartum coverage since 2021 via the American Rescue Plan, which approved the additional months in hopes of improving maternal health and addressing racial disparities in care. (Wisconsin is one of only four states that have not adopted the change.) About half of pregnancy-related deaths occur in the year after giving birth, either because of medical complications (excessive bleeding, heart conditions, infection) or mental health conditions. Eighty percent of them are preventable, according to federal data.

Which makes postpartum coverage literally a matter of life and death, said state Sen. LaTonya Johnson, a Milwaukee Democrat.

"[Coverage] is necessary to combat the severe physical and mental complications that arise beyond the initial coverage period," she said.

(Photo by Getty Images)

Access to care is a similar mess in Ohio, where a pair of administrative rule proposals could restrict gender-affirming treatments for transgender *adults.* The policies, announced by Republican Gov. Mike DeWine earlier this month, would collect data on trans care and require patients with gender dysphoria who are under the age of 21 to undergo six months of counseling before receiving

treatment, per the Ohio Capital Journal.

The draft policies were originally floated as compromise measures to appease Republicans following DeWine's veto of a bill banning gender-affirming care for youth, which is irrelevant now that Republicans have overridden the veto. But by that point the rules had already been *drafted*, and DeWine had already *talked about them*, so they're here to stay, apparently, for no real reason beyond the sunk cost fallacy and Republicans' general desire to make life harder for trans people.

Under the first rule, patients with gender dysphoria would need to obtain medical consent from a psychiatrist, an endocrinologist and a bioethicist before proceeding with treatment. The policy would apply to adults, but only those who begin treatment after the rule takes effect, according to Dan Tierney, a spokesman for DeWine. And it doesn't require patients to actually *sit down* with all of those providers, he added.

"The bioethicist helps develop how each facility is going to deal with cases of how the treatments occur at that particular facility," he said. "At the very least, mental health care is generally provided by the psychiatrist, not the endocrinologist, and endocrinology is generally provided by the endocrinologist, not by the psychiatrist."

Thanks for clearing that up, Dan!
(Illustration by studiostoks/Adobe Stock)

The second rule would authorize the state to collect non-identifying data on patients with gender dysphoria, including treatment related to "gender-reassignment surgery, gender-transition services, genital gender reassignment surgery." Lawmakers would have access to the aggregate data next year. This, according to Tierney, is to establish a "common data set" that can help patients make an "informed decision."

"It's all de-identified, it's all aggregate," he said. "There's really no way you could identify any patient from the data."

Which is not particularly comforting to transgender adults. Somewhere, in some file, there will always be a way to connect a patient to the details of their treatment, said Terry Brown, a transgender man.

"You can assign a code," Brown said. "But there always has to be a place where my name goes back to the code. That is a problem."

Finger-walking my way to some identifying details!
(Photo by Getty Images)

Ohio Senate Democrats expressed similar concerns Tuesday in a letter to DeWine, writing that the proposals "will make access to care so difficult that such care is effectively banned."

"While these rules may have been drafted with the intention of taking a more pragmatic approach than the legislature, in reality, this proposal could make it more difficult for trans Ohioans to receive the life-saving medical care that they need," they wrote. "These medical decisions should continue to be left to parents and individuals in consultation with their health care providers."

Ohioans have until 5 p.m. Friday to submit feedback on the proposals.

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State of Our Democracy

President Joe Biden won't appear on the Democratic primary ballot in New Hampshire, but voters can still write him in.

Which most of them already know.

Probably.

"It's hard to know exactly how many people know who's going to be on the ballot on the Democratic side," McKenzie St. Germain, director of the New Hampshire Campaign for Voting Rights, told the New Hampshire Bulletin. "We are thinking through all of the scenarios on Election Day."

We're not lyin'.
(Photo by Hadley Barndollar/New Hampshire Bulletin)

Officials ran through those scenarios in a training session this month, teaching election workers how to field write-in questions without violating a state election law that bans "visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted."

Generally, the policy is to answer questions … well, generally. If, for example, a voter asks why Biden's name isn't on the ballot, a moderator must answer "in generic terms," according to Secretary of State Dave Scanlan.

"[We] say, 'Any candidate that filled out a declaration of candidacy and met the qualifications, they are on the ballot,' " Scanlan said. "If they aren't, then they didn't go through that exercise."

Same deal if someone asks how to vote for Biden, Scanlan said.

"You can write in any candidate of your choice," he said. "The reason we tell them to do that is if you have election officials who are giving helpful instructions

to a voter and using specific names and that's overheard, it could be perceived in an inappropriate way."

It all sounds a little draining, to be honest, but New Hampshire election workers weren't fazed. Write-in campaigns aren't new. State law isn't, either.

"Guidance from the secretary of state's office has always been to be careful in talking about candidates so that the things we say cannot be viewed as 'pro' or 'anti' one party or another," said Crystallee Newton, a moderator in Lebanon's Ward 2. "I hold that idea very sacred, and have gotten pretty good at redirecting conversations that stray into the political space when at the polls."

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One Last Thing

Pierce Brosnan pleaded not guilty this month to two charges of hiking illegally in Yellowstone National Park — one "closure violation" in a popular area with hot springs, and another described only as "foot travel in a thermal area." Both incidents occurred in November. A federal prosecutor, Brosnan's attorney and the National Park Service all declined to comment.