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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR  
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August 06, 2021

David Causby  
President and Chief Executive Officer  
Kindred at Home  
680 South Fourth St  
Louisville, KY 40202

Dear Mr. Causby:

We write seeking information about the hospice services delivered by Kindred at Home. As you are aware, private equity investment in the U.S. health care system – including the hospice industry – has increased more than twentyfold since 2000, surpassing \$100 billion in deals in 2018.<sup>1</sup> We are concerned that when applied to hospice care, the private equity model of generating profit on a rapid turnaround can occur at the expense of dying patients and their families. Given Kindred at Home’s history of private equity-driven growth, we are requesting additional information in order to better understand this national trend.

The Medicare hospice benefit is designed to offer a rich suite of services to patients and their families during the most vulnerable and stressful moment of their life – when they or their loved one is dying. Today, more than half of all Medicare beneficiaries die while receiving hospice services,<sup>2</sup> and Medicare pays for 90 percent of all hospice days provided in the U.S.<sup>3</sup> These services are increasingly delivered by for-profit companies who have seen a surge in private equity investments and mergers and acquisitions over the past decade, and recent studies have linked poor quality care to for-profit hospice services.<sup>4</sup>

Since its inception as a small volunteer-run movement in the 1960s, the hospice industry has transformed into a \$20 billion industry with a marked increase in for-profit ownership.<sup>5</sup> In 2017, more than two-thirds of hospice providers were for-profit, compared with less than a third in 2000.<sup>6</sup> According to the Medicare Payment Advisory Commission (MedPAC), “the number of hospices doubled from about 2,300 to nearly 4,500 from 2000 through 2017, and for-profit hospices accounted for the entirety of the net increase during that time period.” Researchers estimate that in 2019, 16 percent of Medicare hospice enrollees

<sup>1</sup> “Private equity investments in health Care: An overview of hospital and health System leveraged Buyouts, 2003–17,” Health Affairs (May 1, 2021), available at <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.01535>.

<sup>2</sup> “Hospice Service Payment Systems,” MEDPAC (Oct. 2020), available at [http://medpac.gov/docs/default-source/payment-basics/medpac\\_payment\\_basics\\_20\\_hospice\\_final\\_sec.pdf?sfvrsn=0](http://medpac.gov/docs/default-source/payment-basics/medpac_payment_basics_20_hospice_final_sec.pdf?sfvrsn=0).

<sup>3</sup> “MedPAC report, 90% of hospice care was Medicare in 2017”, MEDPAC (Mar. 2019), available at [http://www.medpac.gov/docs/default-source/reports/mar19\\_medpac\\_ch12\\_sec.pdf](http://www.medpac.gov/docs/default-source/reports/mar19_medpac_ch12_sec.pdf).

<sup>4</sup> “MEDICARE HOSPICE CARE; Opportunities Exist to Strengthen CMS Oversight of Hospice Providers,” GAO (Oct. 2019), available at <https://www.gao.gov/assets/gao-20-10.pdf>.

<sup>5</sup> “The Business of Hospice Care,” WHARTON UNIVERSITY OF PENNSYLVANIA (May. 2006), available at <https://knowledge.wharton.upenn.edu/article/the-business-of-hospice-care/>.

<sup>6</sup> See “MEDICARE HOSPICE CARE; Opportunities Exist to Strengthen CMS Oversight of Hospice Providers,” GAO (Oct. 2019), available at <https://www.gao.gov/assets/gao-20-10.pdf>.

received care from either a private equity-owned or a publicly traded hospice company—up from 11 percent in 2012.<sup>7</sup> And experts project that for-profit ownership will continue to grow in 2021 as “private equity transactions and an influx of new deals during 2021 could drive up hospice valuations that have already reached record highs.”<sup>8</sup>

Evidence suggests that care quality is lower in for-profit hospice companies, making these ownership trends in the hospice industry a cause for concern. In a 2019 report requested by Chairman Wyden, the Government Accountability Office (GAO) found that hospices with the lowest quality scores are most likely to be for-profit. For-profit hospices are more likely than their non-profit counterparts to have low rates of home visits in the last days of life<sup>9</sup> and high rates of live discharge from hospice.<sup>10</sup> These measures are important quality indicators of patient satisfaction, patient experience at the end of life, and the appropriateness of hospice enrollment practices. Furthermore, research and investigative reporting show that for-profit hospices have lower levels of skilled staffing, and reduced clinical services such as nursing care, pain management and bereavement support—all of which are core services that make up high-quality hospice care delivery.<sup>11</sup>

The 2019 GAO report also found that “non-profit hospices had slightly higher percentages of white beneficiaries, and for-profit hospices had a greater proportion of patients enrolled in both Medicare and Medicaid,” indicating that for-profit hospices are more likely to serve patients of color and low-income patients. Furthermore, researchers have found that race and geographic region of the country are correlated to the number of hospice visits by professional staff in patient’s last two days of life. This raises concerns about equitable access to high-quality hospice care across the U.S., and whether patients of color are more likely receive lower quality hospice care at the end of life.<sup>12, 13</sup>

In recent years, the hospice industry has been at the center of multiple Department of Health and Human Services Office of the Inspector General (OIG) investigations detailing non-compliance with Medicare hospice regulations, serious harm caused to beneficiaries due to program deficiencies, and even instances of patient abuse.<sup>14</sup> As you know, Kindred Healthcare was found to have a history of enrolling patients who were not in fact eligible for hospice, and for billing the Medicare program for inappropriate levels of service. In 2016, the company paid a \$3 million penalty to the Federal government after it failed to

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<sup>7</sup> Melissa D. Aldridge, P. D. (2021, May 3). Hospice Tax Status and Ownership Matters for Patients and Families. JAMA Internal Medicine, available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2779070>.

<sup>8</sup> Vossel, H. (2021, March 26). Private Equity Investment in Hospice Hits All-Time High, Valuations Rising. Hospice News, available at <https://hospicenews.com/2021/03/26/private-equity-investment-in-hospice-hits-all-time-high-valuations-rising/>.

<sup>9</sup> “MEDICARE HOSPICE CARE; Opportunities Exist to Strengthen CMS Oversight of Hospice Providers,” GAO (Oct. 2019), available at <https://www.gao.gov/assets/gao-20-10.pdf>.

<sup>10</sup> Per 2019 GAO report: “According to researchers we interviewed and studies we reviewed, some discharges from hospice care prior to death should be expected because, for example, patients change their mind about receiving hospice care or their condition improves and they are no longer eligible for hospice care. However, a high live discharge rate could in some cases be an indicator of poor quality of care provided or of provider misuse of the benefit, in that they may be enrolling beneficiaries who are not eligible for hospice.”

<sup>11</sup> Whoriskey, P., Keating, D. (2014, December 26). Dying and profits: The evolution of hospice. The Washington Post, available at [https://www.washingtonpost.com/business/economy/2014/12/26/a7d90438-692f-11e4-b053-65cea7903f2e\\_story.html](https://www.washingtonpost.com/business/economy/2014/12/26/a7d90438-692f-11e4-b053-65cea7903f2e_story.html);

Melissa D. Aldridge, P. D. (2021, May 3). Hospice Tax Status and Ownership Matters for Patients and Families. JAMA Internal Medicine, available at <https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2779070>.

<sup>12</sup> Joan M. Teno, M. D. (2016, March 1). Variation in Hospice Visits by Staff in the Last 2 Days of Life. JAMA Internal Medicine, available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2488922?resultClick=3>.

<sup>13</sup> “MEDICARE HOSPICE CARE; Opportunities Exist to Strengthen CMS Oversight of Hospice Providers,” GAO (Oct. 2019), available at <https://www.gao.gov/assets/gao-20-10.pdf>.

<sup>14</sup> 2019: Vulnerabilities in Hospice Care. Office of Inspector General | Government Oversight | U.S. Department of Health and Human Services. (2021, February 18), available at <https://oig.hhs.gov/newsroom/media-materials/media-materials-2019-hospice/>.

comply with the corporate integrity agreement that was designed to remedy these problems.<sup>15</sup>

In 2017—a year before being purchased by Humana and two private equity firms—Kindred at Home alone reported more than \$740 million in revenue for its hospice business, which operated at 178 sites nationwide and admitted nearly 51,000 patients who stayed an average of 96 days for a total of 4.9 million patient days.<sup>16</sup> In 2018, Humana, one of the nation’s largest health insurers, partnered with TPG Capital and Welsh, Carson, Anderson & Stowe to purchase Kindred Healthcare for \$4 billion. In connection with the closing of the deal, the investors planned to divide Kindred at Home into a separate, standalone company owned and operated by Humana and the private equity investors.<sup>17</sup> Humana paid \$800 million for a 40 percent ownership stake with the remaining 60 percent owned by TPG Capital and Welsh, Carson, Anderson & Stowe. As part of that acquisition, Humana had “the right to purchase the 60 percent stake in Kindred at Home owned by the private equity firms at the end of the third year.”<sup>18</sup> In April of this year, Humana announced it would purchase the remaining 60 percent of Kindred at Home from its private equity partners for \$8.1 billion, a price more than double the amount that TPG Capital and Welsh, Carson, Anderson & Stowe paid for it just four years ago.<sup>19</sup> A day after the announcement, on their first quarter earnings call, Humana CFO Brian Kane signaled that they would divest a majority stake of their hospice business following the completion of the Kindred at Home transaction, “to capitalize on a robust market for hospice assets.”<sup>20</sup>

The hospice benefit serves a particularly vulnerable patient population. The U.S. Senate Committee on Finance has a strong interest in ensuring the quality of services delivered under the Medicare program, including the hospice benefit. We are committed to ensuring the Medicare program provides essential, high-quality care to beneficiaries, especially at the end of life. The hospice industry has evolved from a volunteer-driven movement to big business generating billions of dollars in revenue every year. However, for people in their final days on Earth, or families losing a loved one, hospice remains a deeply personal service. The GAO’s findings leave us concerned that when hospice is led by for-profit companies and private equity firms, quality and comfort take a backseat to profits—an unacceptable outcome.

In order to more fully understand the issues raised in this letter, please provide the following information and documents requested below no later than September 3, 2021:

1. Kindred at Home operates hospice services across multiple states and branch locations. Please provide data on all branch locations that have enrolled hospice patients since January

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<sup>15</sup> Office of Inspector General, D. of H. and H. S. (2016, September 20). HHS's Office of Inspector General Levies Largest Penalty Under a Corporate Integrity Agreement Against Nation's Biggest Provider of Post-Acute Care, *available at* <https://oig.hhs.gov/newsroom/news-releases/2016/kindred.asp>.

<sup>16</sup> KINDRED HEALTHCARE, INC. Form 10-K for Fiscal Year Ended December 31, 2017." United States Securities and Exchange Commission, (2017), *available at* [https://www.sec.gov/Archives/edgar/data/0001060009/000156459018003936/knd-10k\\_20171231.htm](https://www.sec.gov/Archives/edgar/data/0001060009/000156459018003936/knd-10k_20171231.htm).

<sup>17</sup> Humana, Together with TPG Capital and Welsh, Carson, Anderson & Stowe, Announce Completion of the Acquisition of Kindred Healthcare, Inc. Humana Inc. (2018, July 2), *available at* <https://press.humana.com/news/news-details/2018/acquisition-kindred-healthcare-inc/default.aspx#gsc.tab=0>.

<sup>18</sup> Thomson Reuters. (2017, December 19). Humana, private equity firms buy Kindred Healthcare for \$810 million. Reuters, *available at* <https://www.reuters.com/article/us-humana-kindred-hthcare-m-a-idUSKBN1ED1MO>.

<sup>19</sup> Humana Announces Agreement to acquire remaining 60 Percent Interest in Kindred at Home, Accelerating Integration of the Nation's Largest Home Health Provider into Humana's Payer-Agnostic Healthcare Services Platform. Humana Inc. (2021, April 27) *available at* <https://press.humana.com/news/news-details/2021/Humana-Announces-Agreement-to-Acquire-remaining-60-Percent-Interest-in-Kindred-at-Home-Accelerating-Integration-of-the-Nations-Largest-Home-Health-Provider-into-Humanas-Payer-Agnostic-Healthcare-Services-Platform/#gsc.tab=0>.

<sup>20</sup> Vossel, H. (2021, June 22). Humana Set to Make Bank on Kindred at Home Hospice Spin Off, Sale. Hospice News, *available at* [https://hospicenews.com/2021/06/22/humana-set-to-make-bank-on-kindred-at-home-hospice-spin-off-sale/?euid=9ee25c7736&utm\\_source=hspn-newsletter&utm\\_medium=email&utm\\_campaign=a7b06729b9](https://hospicenews.com/2021/06/22/humana-set-to-make-bank-on-kindred-at-home-hospice-spin-off-sale/?euid=9ee25c7736&utm_source=hspn-newsletter&utm_medium=email&utm_campaign=a7b06729b9).

- 1, 2011 – including locations that are no longer operational. For each location, please include the following data:
- a. National Provider Identifier number
  - b. CMS Certification Number
  - c. Branch name
  - d. Branch address
  - e. Current Active/Not Active Status ('Active' defined as 1 or more enrolled hospice patients)
  - f. Dates of service as an active branch of Kindred at Home
2. Please provide a list of facilities that have closed in the past 10 years, their location and the reason for closing.
3. Please provide annual average lengths of stay and median lengths of stay since 2011, by:
- a. Branch location
  - b. Primary diagnosis
  - c. Location of service (e.g. private home, nursing home, assisted living facility)
4. Data suggests that for-profit hospices have significantly higher rates of live discharge than nonprofit hospices.<sup>21</sup> Please provide the following information regarding live discharge rates, annually, since 2011:
- a. Live discharges broken down by care setting (e.g. patient home vs. nursing home) and by the reason the patient was discharged (no longer hospice-eligible vs. patient self-disenrollment).
  - b. Of patients who were discharged live from Kindred at Home, percentage of total patient days on hospice by billing category: RHC days 1-60; RHC days 61+; GIP; IRC; CHC.
5. Research has found that race and geographic region of the country are correlated with the number of hospice visits by professional staff in patient's last two days of life – a measure that many researchers say is an important quality indicator. The researchers found that, "Visits were less likely when the Medicare beneficiary was black, dying on a Sunday and receiving care in a nursing home."<sup>22</sup> Given the importance of these data to care quality for Medicare beneficiaries at the end of life, please provide a random sampling of complete billing data for hospice patients during the last week of life, from each year since 2015,

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<sup>21</sup> Joan M. Teno, M. D. (2016, March 1). Variation in Hospice Visits by Staff in the Last 2 Days of Life. JAMA Internal Medicine. <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2488922?resultClick=3>.

<sup>22</sup>Joan M. Teno, M. D. (2016, March 1). Variation in Hospice Visits by Staff in the Last 2 Days of Life. JAMA Internal Medicine, available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2488922?resultClick=3>.

including information on patient race/ethnicity, discipline of the visiting staff, and branch location for each patient.

6. Please provide a list of all private equity funders that have invested in Kindred at Home since January 1, 2011. For each private equity investor please provide the following:
  - a. Date, total dollar amount of the transaction, resulting ownership stake, and date of divestment if applicable.
  - b. Specifically in the 2021 TPG Capital and Welsh, Carson, Anderson & Stowe deal, please provide the financial analysis done by Barclays and Guggenheim Securities, LLC, the acting financial advisors to Kindred at Home.<sup>23</sup>
  
7. Humana's 2017 SEC filing disclosed that TPG Capital and Welsh, Carson, Anderson & Stowe, "had the right to require [Humana] to purchase their interest in the joint venture starting at the end of year three and ending at the end of year four following the closing... based on the achievement of certain pre-defined value-based outcomes tied to clinical metrics."<sup>24</sup> Given this, please provide the level of involvement in Kindred at Home's management, financial and patient care-related decisions by each of these entities. For each question, please provide data for each year from 2017 to 2021:
  - a. Please provide the composition of Kindred at Home's board of directors and executive leadership team (and any changes or turnover within the given date range)
  - b. Please provide all emails exchanged between TPG Capital and/or Welsh, Carson, Anderson & Stowe and Kindred at Home's leadership team, and all meeting minutes between the same parties related to:
    1. Operational policies, including but not limited to referral policies and clinical staffing policies
    2. Clinical policies, including but not limited to patient eligibility and enrollment policies
    3. Target operating measures
    4. Quality measures
  - c. If Kindred at Home maintains an "executive dashboard," please provide the relevant data, including key performance indicators, and annual targets.
  - d. Please describe the "certain pre-defined value-based outcomes tied to clinical metrics" referenced in the above deal, and provide the relevant data, explaining whether these outcomes were achieved as well as how these outcomes were achieved.

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<sup>23</sup> Humana Announces Agreement to acquire remaining 60 Percent Interest in Kindred at Home, Accelerating Integration of the Nation's Largest Home Health Provider into Humana's Payer-Agnostic Healthcare Services Platform. Humana Inc. (2021, April 27), available at <https://press.humana.com/news/news-details/2021/Humana-Announces-Agreement-to-Acquire-remaining-60-Percent-Interest-in-Kindred-at-Home-Accelerating-Integration-of-the-Nations-Largest-Home-Health-Provider-into-Humanas-Payer-Agnostic-Healthcare-Services-Platform/#gsc.tab=0>.

<sup>24</sup> HUMANA INC. Form 10-K for Fiscal Year Ended December 31, 2017." United States Securities and Exchange Commission, (2017), available at <https://www.sec.gov/Archives/edgar/data/49071/000004907118000014/hum-20171231x10k.htm>.

- e. Please describe the bonus structure in place for Kindred at Home executive leadership (as of January 1<sup>st</sup> of each requested year). Were any executive-level employees compensated, or given bonus payments, for reaching targets, operating metrics or financial goals put in place by the private equity firm? If so, include rationale for bonus payments, who received them and the amount awarded.
8. Please provide the following clinical and/or operational policies from January 1<sup>st</sup> of each year from 2015 – 2021:
- a. Hospice staffing policies and staff productivity requirements
  - b. Hospice eligibility and enrollment policies
  - c. Referral policies and procedures

Thank you for your prompt attention to this matter. If you have any questions, please contact Senate Finance Committee oversight staff at (202) 224-4515.

Sincerely,



Ron Wyden  
Chairman  
Committee on Finance



Elizabeth Warren  
Member  
Committee on Finance



Sherrod Brown  
Member  
Committee on Finance