



Health Care Consolidation

Harms & Remedies

August 15, 2023

TEXAS ²⁰₃₆

Charles Miller, Senior Policy Advisor

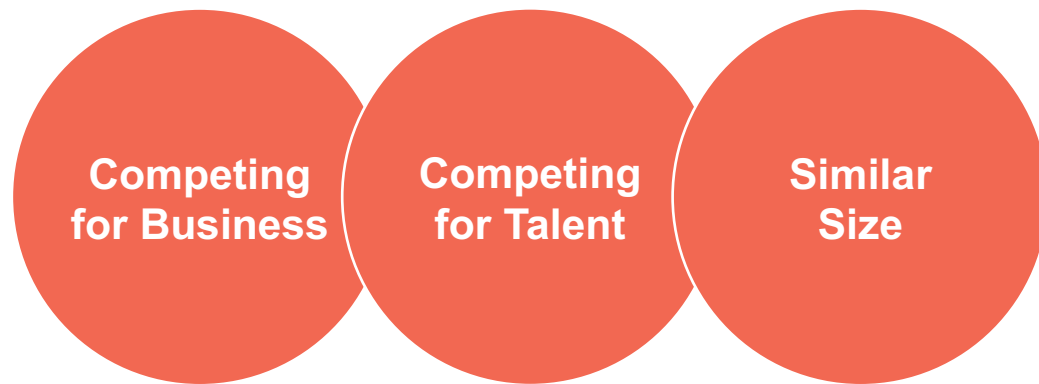
 charles.miller@texas2036.org

 [@CharlesTXPolicy](https://twitter.com/CharlesTXPolicy)

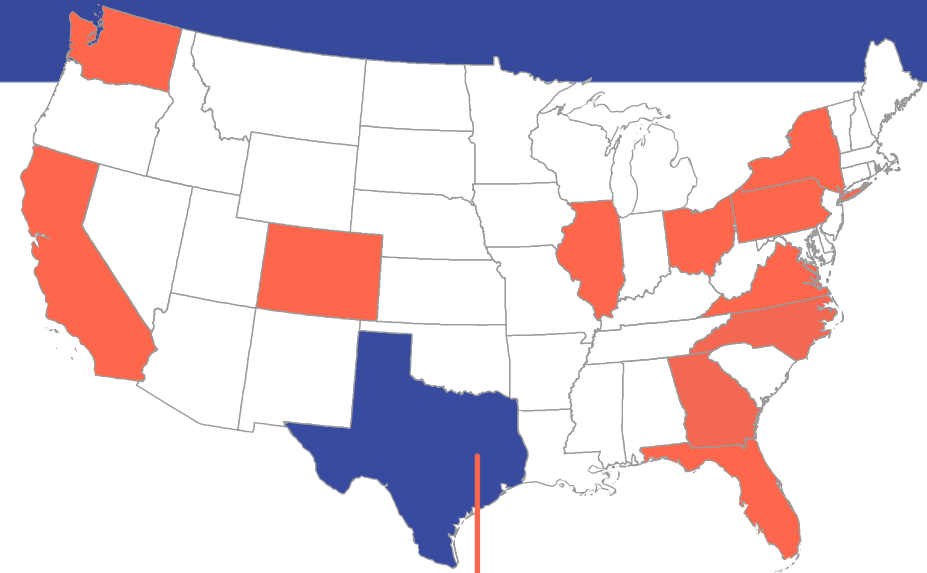


Assessing Texas' performance against competitors

Peer states identified based on index including **15 factors** across 3 domains



Together, Texas and its peers account for **58% of the total U.S. population** and **62% of total U.S. GDP**



- | | | |
|------------|----------------|--------------|
| California | Illinois | Pennsylvania |
| Colorado | New York | Virginia |
| Florida | North Carolina | Washington |
| Georgia | Ohio | |

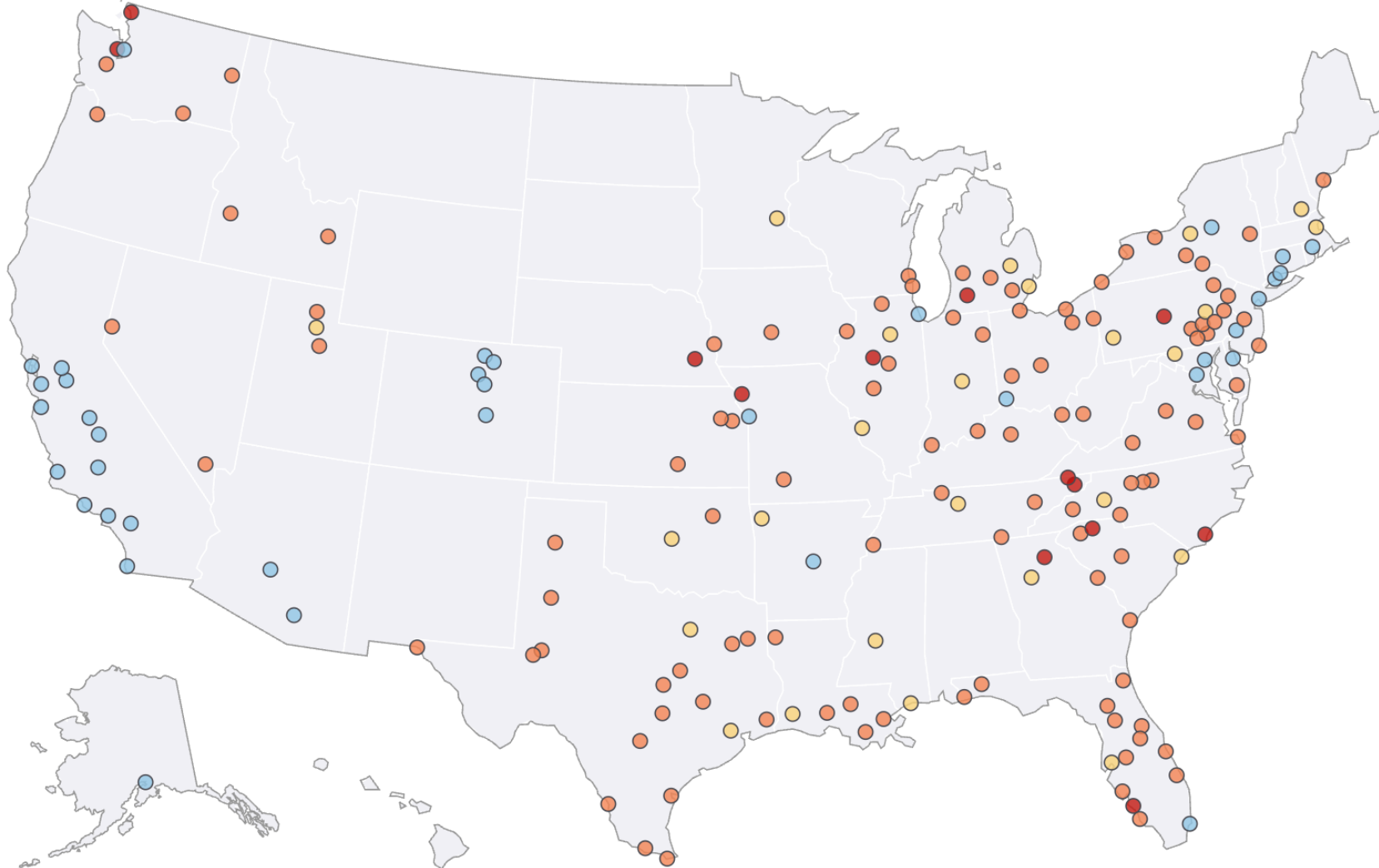
Market Background & Texas

Inpatient Hospital Market Concentration in U.S. Metros, 2021

Concentration Level ⓘ

UNCONCENTRATED MODERATE HIGH VERY HIGH

Click or mouseover a group above to highlight on the map.
Hover over a city below to see more.

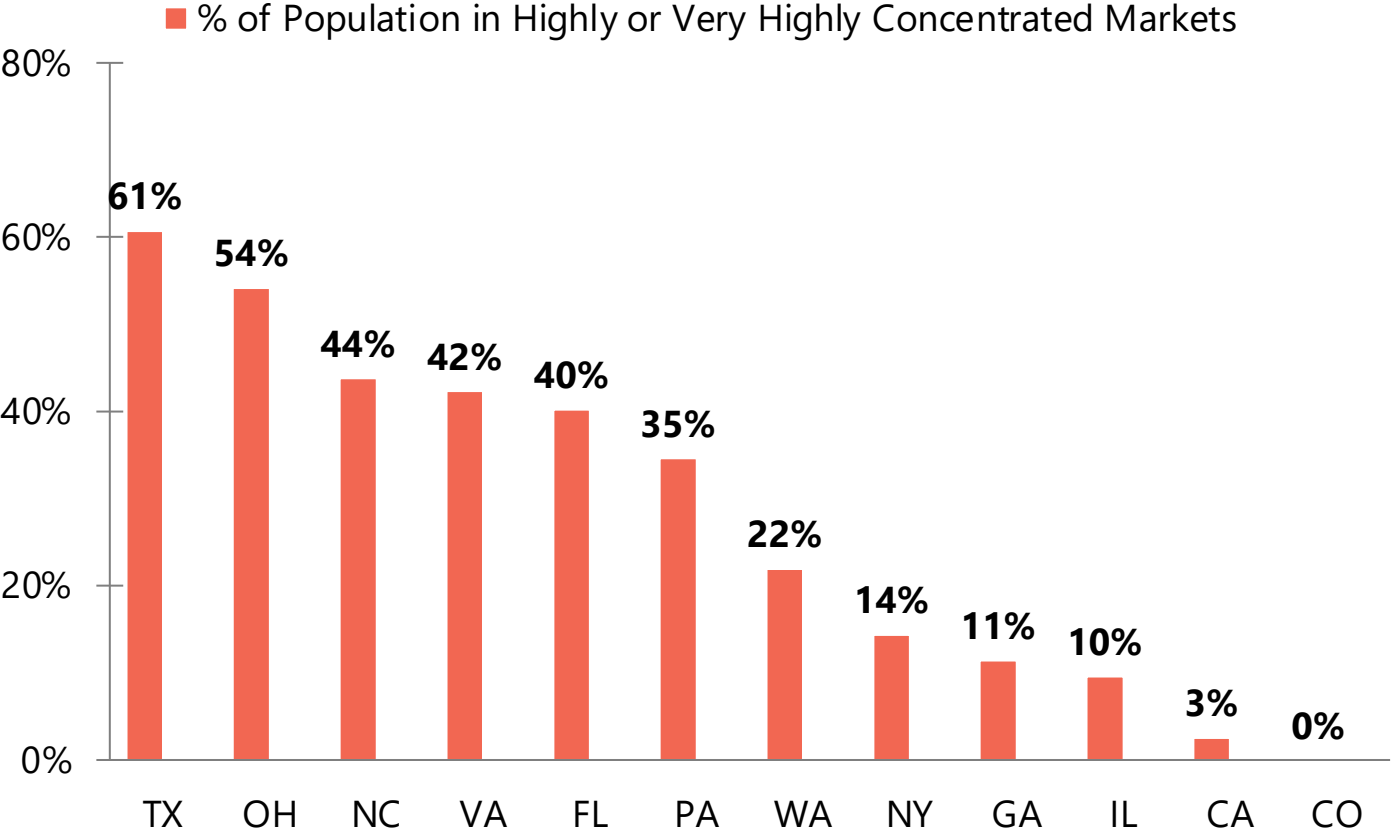


Metros Ranked by Concentration ⓘ



Hospital Market Consolidation

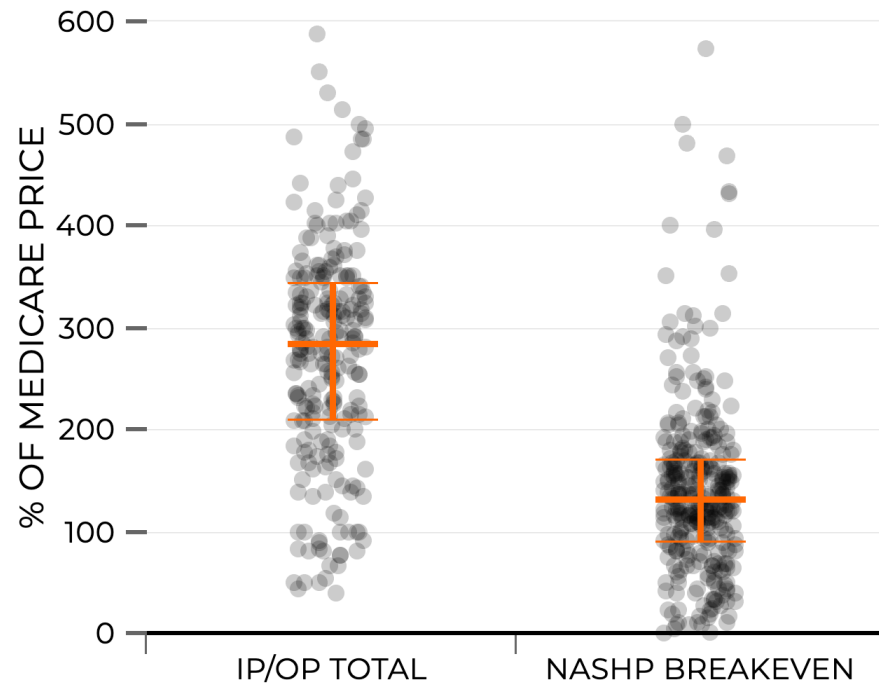
Among peer states, Texas has the highest percentage of its population in Highly or Very Highly Concentrated Markets.



Commercial Prices vs Breakeven Prices

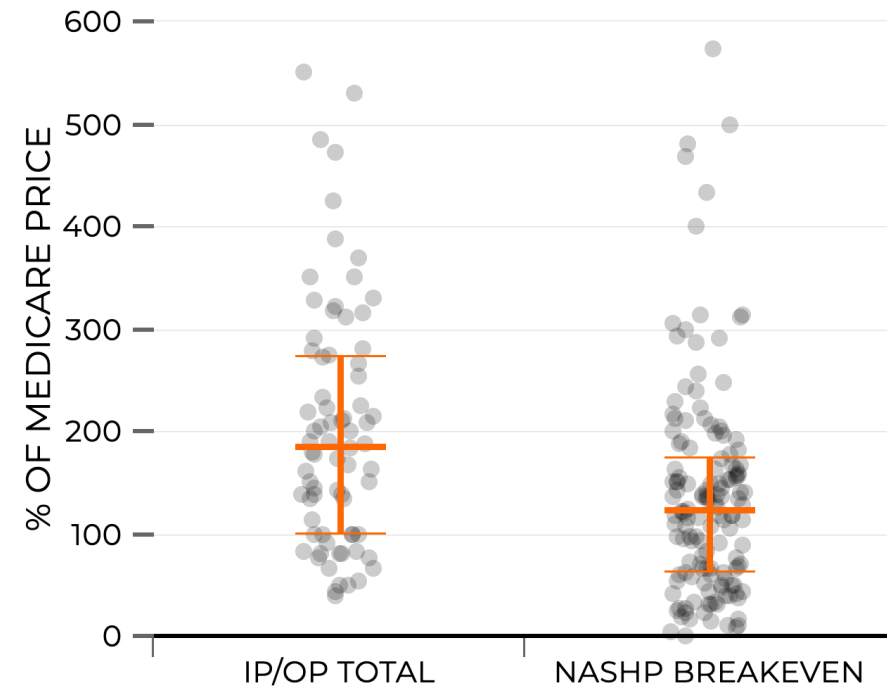
All Hospitals State-wide

COMMERCIAL & BREAKEVEN
RAND 2018-2020, NASHP 2019



Small Hospitals (<50 Beds)

COMMERCIAL & BREAKEVEN
RAND 2018-2020, NASHP 2019



Texas Policy Landscape

Policy Options to Address Consolidation

Know your state's environment – not all options are a good fit

1

Government Rate Setting

Directly

Direct rate setting can take several forms, including global budgets, out-of-network rate caps, service line rate caps, etc...

Indirectly

Rate setting can be done indirectly through oversight over insurance premiums, or as a part of network adequacy reviews.

2

Deconsolidation

Forced Break-ups

A government agency requires consolidated entities to divest into smaller entities.

Incentivized Break-ups

Rather than forcing consolidated entities to break up, the government imposes rate-setting in markets that are overly consolidated, .

3

Anti-Competitive Contracting

Prohibition

Prohibit the use of anti-competitive contracting clauses such as "all or nothing," "all products clauses," "vertical tying clauses," "anti-steering/tiering," "gag clauses," "most-favored nation," and "in-house referrals."

Targeted Prohibition

Enforcement or prohibition could be targeted only at entities that have more than a designated threshold of market share.

Our Approach & Messaging

HEALTHY MARKETS FOR HEALTHY TEXANS TX 2036



INFORMED

Markets require **transparency**.

Increase access to data on price and quality for health care

Research Transparency: Improving the APCD

(HB 3414 by [Oliverson](#))

(SB 2045 by [Hancock](#))

Require providers to provide meaningful price estimates

(HB 3218 by [Klick](#))



COMPETITIVE

Markets require **options**.

Options for coverage and care that all compete **on a level playing field** to meet Texans' health care needs.

Fee Neutrality

(HB 1692 by [Frank](#))

(SB 1275 by [Hancock](#))

Consumer Choice Benefit Plans

(HB 1001 by [Capriglione](#))

(SB 605 by [Springer](#))



ENGAGED

Markets require **aligned incentives**.

Reward those who choose high-quality, low-cost options.

Smart Shopper Protections

(HB 2002 by [Oliverson](#))

Empowering Employers to Design Smart Networks

(HB 711 by [Frank](#))

Support **Healthy Markets** in Texas

HB 711 by Rep. James Frank and Sen. Lois Kolkhorst



Texas employers and families are struggling to pay rising hospital and health care costs.



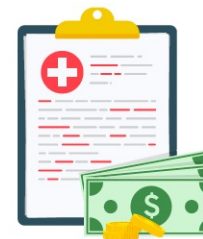
Texas has a highly-concentrated health care market.

A majority of Texas' population (61%) lives in "highly" or "very highly concentrated" hospital market concentration, as compared to 3% in California and 10% in Illinois.

Texans are concerned about the cost of health care.

In a recent Texas Association of Business poll, Texans shared that health care cost increases were a greater concern than inflation.

On average, employer-sponsored health insurance now costs \$22,000 per covered family, which is about one-third of the median wage of a Texas household.



MAKE SELECTIONS TO FILTER HOSPITAL VIEW

FILTER BY GEOGRAPHY AND YEAR

Select type of geography: Texas Senate
Filter geography: Miles, Borris L. (District 13)
Select a year: 2021

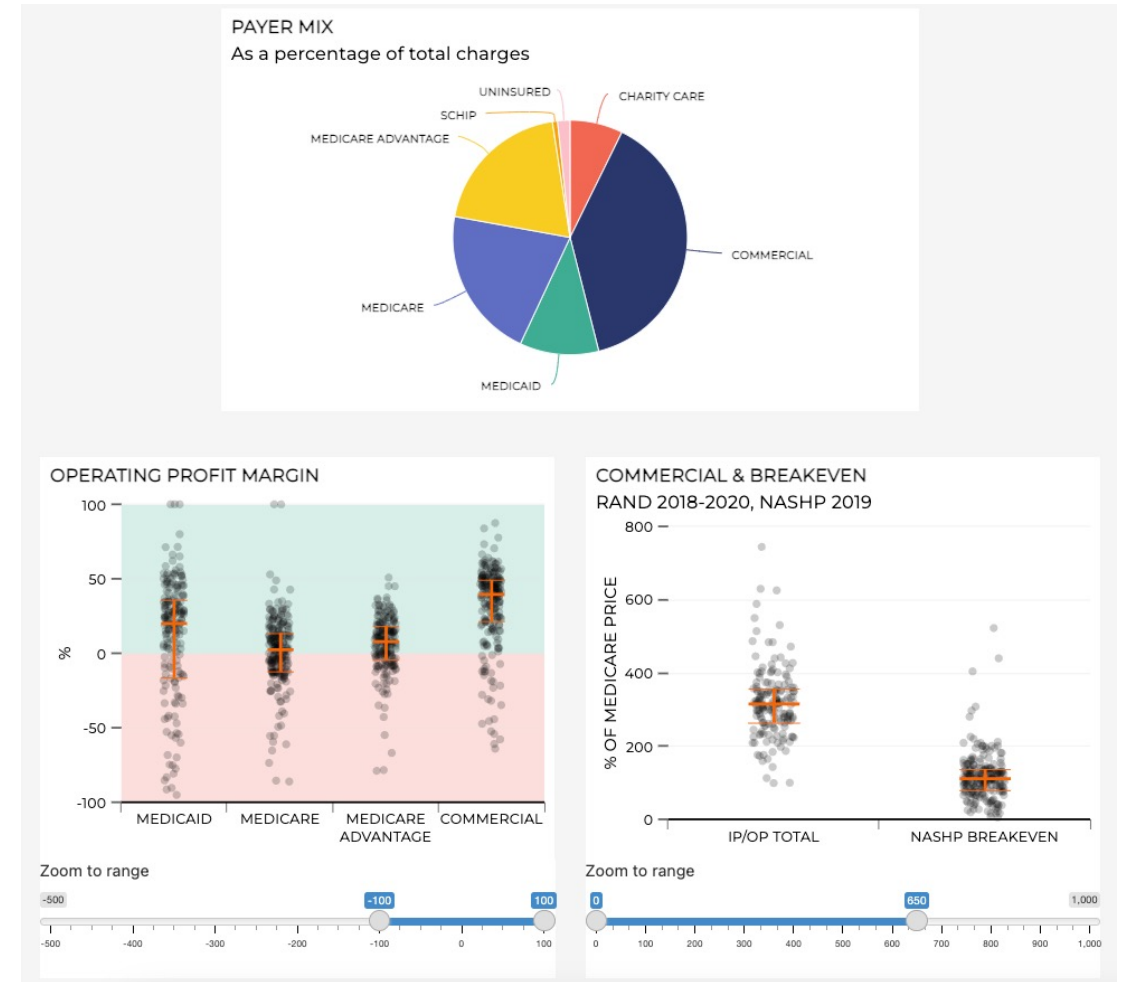
FILTER BY HOSPITAL ATTRIBUTES

Filter for hospital size: 0 to 1,700
Filter by hospital system: All
Check to include critical access and public hospitals:

FILTER TO SELECT HOSPITAL(S)

All

> APPLY CHANGES CLEAR SELECTIONS

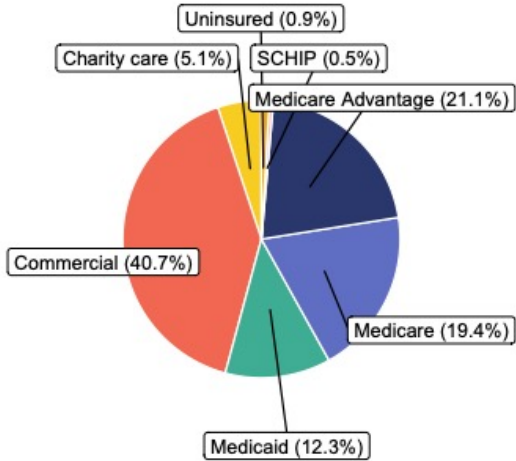


Harnessing the NASHP Cost Tool

Area: Miles, Borris L. (District 13) | Hospital Size: 0 – 1700 beds | Hospital System: All

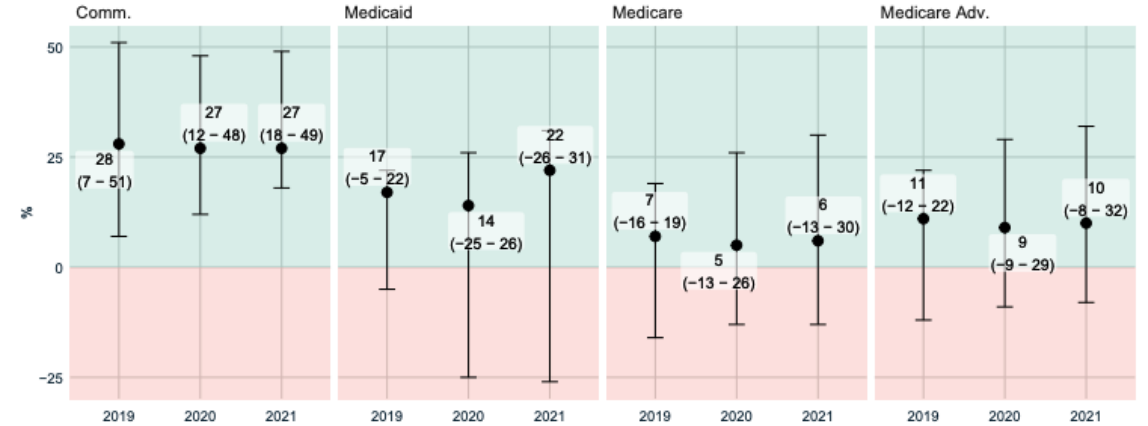
Payer Mix

As a percentage of total charges
2021



Payer	2019	2020	2021
Charity care	5.2	5.2	5.1
Commercial	39.6	39.7	40.7
Medicaid	13.0	13.1	12.3
Medicare	23.0	21.5	19.4
Medicare Advantage	17.8	19.0	21.1
SCHIP	0.4	0.4	0.5
Uninsured	1.1	1.1	0.9

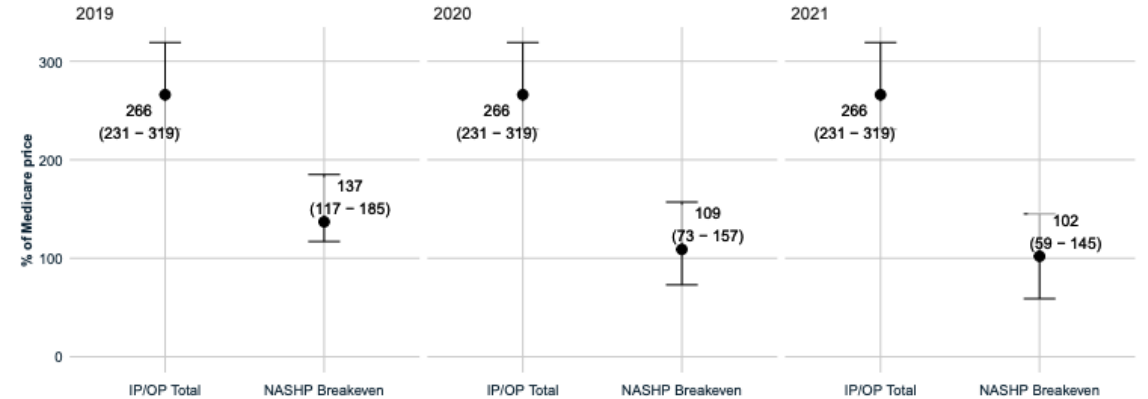
Operating Profit Margin



The point and the top number in the label represent the median value for the selected hospitals. The error bars and numbers in parentheses represent the interquartile range.

Commercial & Breakeven

RAND 2018–2020, NASHP 2019



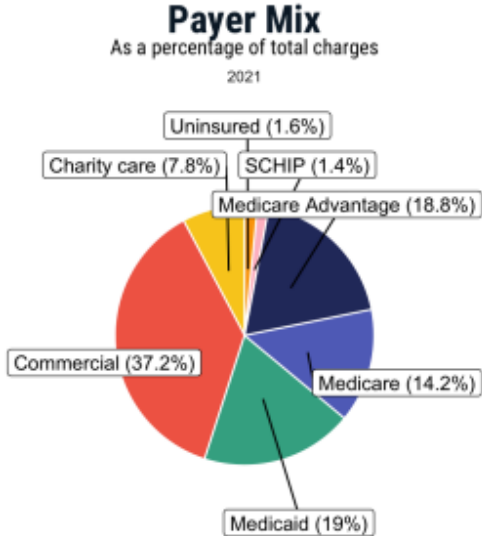
The point and the top number in the label represent the median value for the selected hospitals. The error bars and numbers in parentheses represent the interquartile range.

Individualized Legislative District Reports

MEMORIAL HERMANN TEXAS MEDICAL CNTR (HOUSTON)

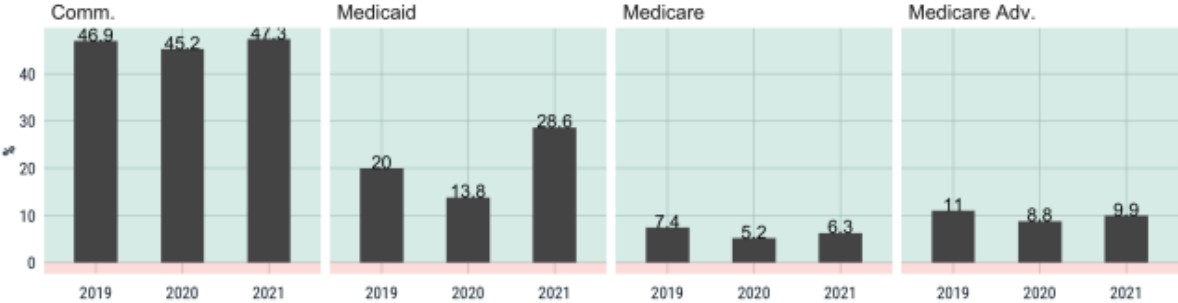
6411 FANNIN HOUSTON, TX 77030

Memorial Hermann Healthcare System | 1067 beds

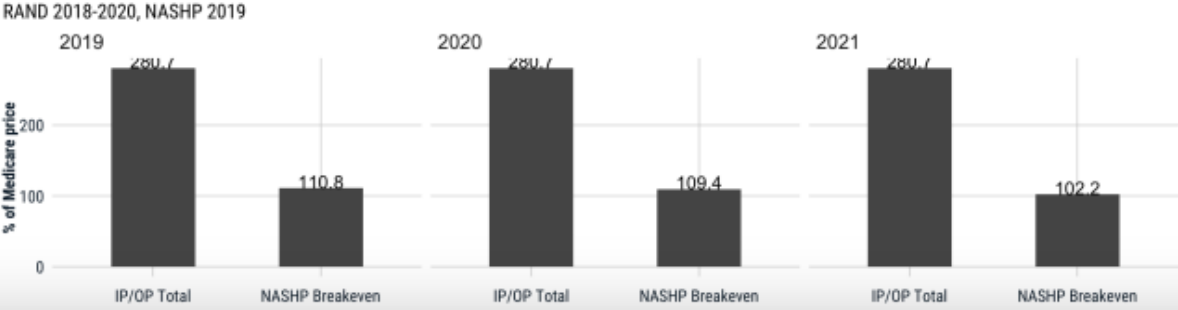


Payer	2019	2020	2021
Charity care	6.7	6.9	7.8
Commercial	36.8	36.2	37.2
Medicaid	19.8	19.8	19.0
Medicare	17.4	15.6	14.2
Medicare Advantage	16.9	18.5	18.8
SCHIP	1.0	1.1	1.4
Uninsured	1.4	1.8	1.6

Operating Profit Margin



Commercial & Breakeven



Individual Hospital Reports



HB 711: A Broad Coalition of Support

Industry Responses & Thoughts



Hospitals

- Strongly Opposed “All or Nothing.”
- Unsuccessfully tried to water down anti-steering & anti-tiering
- Asked for delayed effective date
- Association was negotiated to neutral, but individual CEOs called legislative leadership in opposition



Doctors & Providers

- Strongly Opposed All or Nothing
- Lightly asked for inclusion of “all products clauses”
- Disorganized politically on these issues
- Some physician legislators were so angry at hospitals for other bills that they voted yes on this bill out of spite



Insurers

- Were generally supportive
- Played a background role
- Were strongly opposed to imposing a fiduciary duty on PBMs that steer or tier
- Also sought changes to state laws to allow fully-insured products to steer and tier (open to fiduciary duty)

HB 711 restores competition to Texas' health care markets by prohibiting contracts that include:

- **Anti-steering clauses** that restrict employers and health plans from encouraging enrollees to obtain services at a competitor or from offering incentives to use specific providers
- **Anti-tiering clauses** that require employers and health plans to place all physicians, hospitals, and other facilities associated with a hospital system in the most favorable tier of providers
- **Gag clauses** that prohibit any party from disclosing relevant price or quality information to the government, enrollees, treating providers, plan sponsors, and potential enrollees and plan sponsors
- **Most favored nation clauses** that prevent providers from offering prices below those contracted with a particular carrier

HB 711 also imposes **a fiduciary duty on health benefit plans**: If they encourage enrollees to obtain a service from a particular provider, including offering incentives to encourage specific providers, introducing or modifying a tiered network plan, or assigning providers into tiers, they must do it for the primary benefit of the enrollees, not themselves.



Political Notes

- a. Differing Republican Leadership
- b. House Select Committee & Report
- c. COVID Impact, Data, & Trust
- d. Invested Legislative Champions
- e. Flood the Zone & Other Legislation

Thank You!



Charles Miller

Senior Policy Advisor

charles.miller@texas2036.org

574.315.1358

@CharlesTXPolicy

TEXAS 20
36