

BURDA ON HEALTHCARE

# Will Consumer Complaint Portals Save Us From the System?

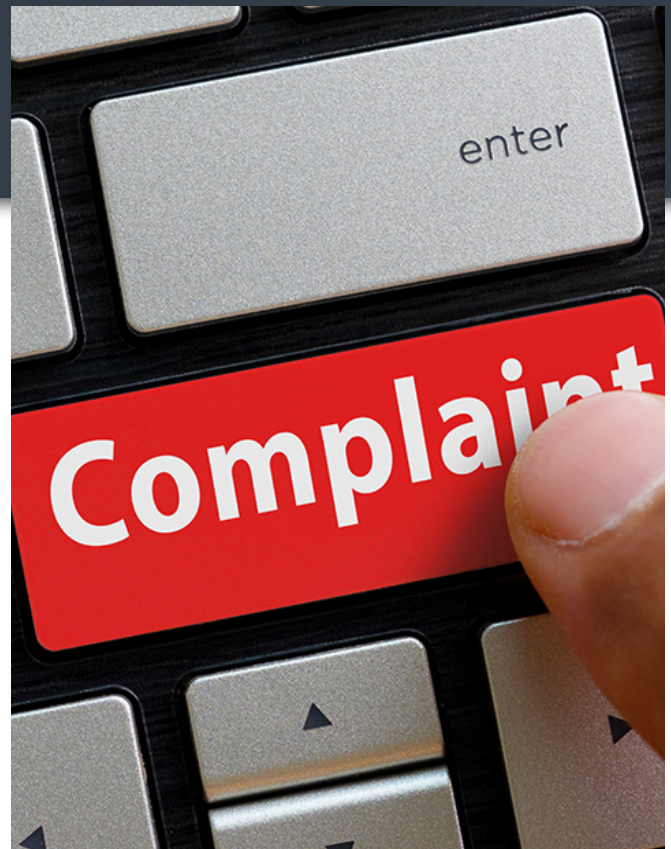
By David Burda

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**F**ormer President Donald Trump — or as I call him on the [4sight Health Roundup podcast](#), Cheeto Jesus — once said, “Nobody knew that healthcare could be so complicated.” He also said that most people didn’t know Abraham Lincoln was a Republican until he told them. The fact is, anyone who’s ever used the U.S. healthcare system knows it’s complicated. And anyone who finished fifth grade knows that Lincoln was a Republican.

The rapist, convicted felon and presumptive presidential nominee of the MAGA Republican cult is dumb. People are smart. Hopefully smart enough not to vote for a wannabe fascist dictator who’s promised to take away your liberties, including your reproductive healthcare rights.

But are people smart enough to know and report anti-competitive healthcare behavior when they see it?



## FEDERAL AGENCIES OPEN ANTICOMPETITIVE PORTAL

That's the question raised by a [new initiative](#) announced in April by the Federal Trade Commission (FTC), the U.S. Justice Department's Antitrust Division and the U.S. Department of Health and Human Services (HHS). The three agencies opened an "easily accessible online portal for the public to report healthcare practices that may harm competition."

Here's the link to the portal, [HealthyCompetition.gov](https://HealthyCompetition.gov).

The site provides "examples of conduct that can harm competition in healthcare." The examples include:

- Consolidation, joint ventures and "roll-ups" of healthcare providers or companies.**
- Limiting choice and fair wages for healthcare employees.**
- Collusion or price fixing among competitors.**
- Preventing transparency.**
- Healthcare contract language and other practices that restrict competition.**
- Anticompetitive uses of healthcare data.**

### Unnecessary healthcare provider recertification or accreditation requirements.

The site also provides descriptions of four federal laws that protect competition in healthcare markets: the Sherman Act, the Clayton Act, the Federal Trade Commission Act and the Robinson-Patman Act.

My favorite guidance to consumers is the site's instructions on what not to do:

*"This form is only to be used to submit complaints about healthcare competition. Please do not submit complaints about failure to pay claims or cover healthcare services, increases in individual insurers' rates, billing disputes, or general unhappiness about the healthcare system."*

You'd need a much bigger portal to collect tips on consumers' general unhappiness about the healthcare system. "Cancel my prescription!" as my friend Andy Robeznieks, a fellow veteran healthcare journalist, likes to say in a mock angry old man's voice. The bit never gets old. But I digress.

## WHO WILL USE THE ANTICOMPETITIVE HEALTHCARE PRACTICES PORTAL?

I really don't see consumers and members of the general public using the antitrust portal much. Maybe some will use it to file a complaint about a hospital or medical practice that didn't disclose the price of a service when the person was shopping around for care.

I do see healthcare workers, especially unionized healthcare workers, filing complaints about hospital or health system monopolies artificially holding down wages because they control the market and the local labor pool. I do see physicians and medical practices filing complaints about illegal non-compete clauses in employment contracts or practice acquisition deals. I do see competitors ratting out each other over suspect behaviors and questionable market manipulations. I do see individual practitioners complaining about artificial restrictions that bar them from practicing across state lines or at the top of their licenses.



But regular folk using it? I doubt it. The next time I'm at my mom's, I'll ask her to give me an example of a per se violation of the Sherman Act by two hospitals. You never know.

## HHS OPENS EMTALA PORTAL TO FIELD PATIENT COMPLAINTS

I think consumers are more likely to use another portal to complain about the healthcare system. It's the new [EMTALA](#) (Emergency Medical Treatment and Active Labor Act) complaint portal unveiled by HHS in May. The 1986 law requires hospitals to give a basic medical screening to anyone who shows up in their emergency room regardless of the patient's ability to pay. Hospital ERs must stabilize the patient before discharge or transfer. The law also requires providers to treat women in active labor no matter what.

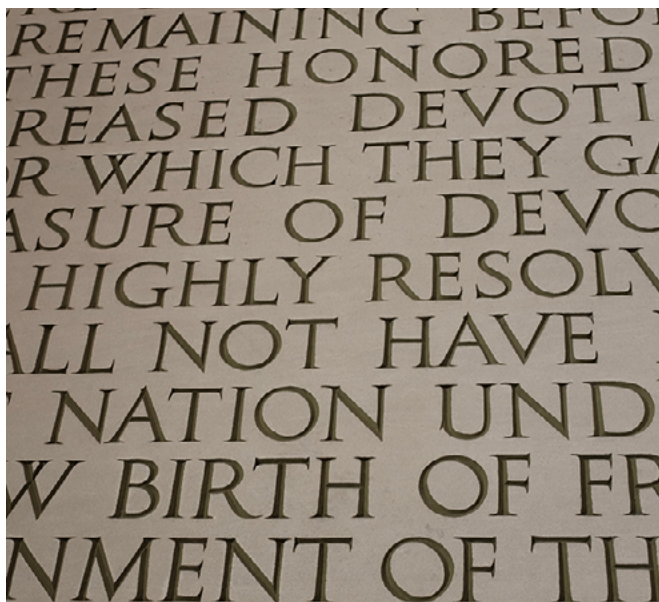
Back in the day, we called it the "patient dumping" law. And, yes, "active" really is part of the law's name though it seems to have gone missing from references to it today.

"HHS is committed to protecting access to emergency medical care for everyone in America and making sure appropriate steps are taken if they don't get that care," said HHS Secretary Xavier Becerra in a press release announcing the new EMTALA complaint portal. "We will continue to uphold the law and the right to emergency care, to inform people of their rights under EMTALA and to make it easier for someone denied care to file a complaint."

"If an individual believes their EMTALA rights have been violated, it is important that they can easily file a complaint," said CMS Administrator Chiquita Brooks-LaSure in the same release. "We want to make sure that everyone knows their rights and can take action to help make sure the healthcare system is safe for everyone."



Here's the link to the [EMTALA complaint portal page](#). Here is the [EMTALA complaint form](#). You can file a complaint as a patient. You can file a complaint on behalf of the patient. You can even file a complaint if you work at the hospital where the alleged patient dumping took place.



## WHO WILL USE THE EMTALA COMPLAINT PORTAL?

I think consumers and members of the general public are more likely to use this EMTALA portal than the antitrust portal because most of us have been in hospital ERs either as patients or as family members of patients. Most of us know someone who's gone into active labor before delivering their baby. Or we at least saw it happen on TV. We know what's supposed to happen, and we know when it doesn't happen. We know when our rights have been violated.

Unless you live in Texas.

The complaint form comes with this caveat: "If the hospital is in Texas, or if you discover that an involved physician is a member of American Association of Pro-Life OBGYNs (AAPLOG) or



Christian Medical & Dental Association (CMDA), there is a legal bar (injunction) that prevents EMTALA enforcement against a Texas hospital or against any physician member of AAPLOG or CMDA, regardless of the state the physician practices in.”

That sounds like anticompetitive behavior that should be reported to the antitrust portal.

Anyway, I guess that Texas EMTALA exemption language brings this column full circle. Some people want to protect your rights. Others want to take away your rights. It's all up to you which way this thing goes. Vote accordingly.

Thanks for reading.

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## AUTHOR



**David Burda** began covering healthcare in 1983 and hasn't stopped since. Dave writes this monthly column "Burda on Healthcare," contributes weekly blog posts, manages our weekly newsletter 4sight Friday, and hosts our weekly Roundup podcast. Dave believes that healthcare is a business like any other business, and customers — patients — are king. If you do what's right for patients, good business results will follow.

Dave's personal experiences with the healthcare system both as a patient and family caregiver have shaped his point of view. It's also been shaped by covering the industry for 40 years as a reporter and editor. He worked at Modern Healthcare for 25 years, the last 11 as editor.

Prior to Modern Healthcare, he did stints at the American Medical Record Association (now AHIMA) and the American Hospital Association. After Modern Healthcare, he wrote a monthly column for Twin Cities Business explaining healthcare trends to a business audience, and he developed and executed content marketing plans for leading healthcare corporations as the editorial director for healthcare strategies at MSP Communications.

When he's not reading and writing about healthcare, Dave spends his time riding the trails of DuPage County, IL, on his bike, tending his vegetable garden and daydreaming about being a lobster fisherman in Maine. He lives in Wheaton, IL, with his lovely wife of 40 years and his three children, none of whom want to be journalists or lobster fishermen.

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