American Hospital Association™
Advancing Health in America

Washington, D.C. Office
800 10th Street, N.W.
Two CityCenter, Suite 400
Washington, DC 20001-4956
(202) 638-1100

Statement of the

American Hospital Association

for the

Committee on the Judiciary

Subcommittee on Antitrust, Commercial and Administrative Law

of the

U.S. House of Representatives

"Diagnosing the Problem: Exploring the Effects of Consolidation and Anticompetitive Conduct in Health Care Markets"

March 7, 2019

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) appreciates the opportunity to submit for the record our comments for the hearing on the effects of consolidation and anticompetitive conduct in health care markets.

During the past decade, there have been significant changes in the health care landscape, and perhaps none has been more profound than the shift to value-based payment by the government and private payers. This shift – combined with numerous technological advances and new, highly-capitalized market entrants – already has altered the way in which every hospital and health system delivers health care to the communities they serve and promises to do so even more in the future.

Three things to appreciate about the changes occurring in the hospital and health system field are:

1. The purpose is to build sustainable, coordinated networks of care with the scale and scope to allow them to innovate while benefiting patients and communities.
2. They will enable hospitals and health systems to try to compete with highly-capitalized tech giants and other large companies often without roots in, or obligations to, the communities served.

3. They are essential to building a platform to advance efforts to improve quality and access through innovation and strategy that can reduce costs and enhance convenience for the entire community.

While some critics and academics have suggested this is about leverage, their studies typically are seriously flawed, for example, lacking data on the largest health insurance companies in virtually every market. The studies appear to be largely academic exercises with little probative value for policymakers at every level, which routinely fail to examine the impact of widespread consolidation in health insurance markets and the impact of dominant commercial health insurers on prices and innovation.

However, the real story is that hospital and health system transactions are about organizations responding to the rapidly changing health care landscape by coming together to drive high-value and high-performing health care. While various forms of affiliation are being pursued, mergers and acquisitions can be an effective means for making progress toward meeting the aims of value-based population health. This realignment is a direct response to the changing needs of communities for more convenient care, continuous financial pressures to reduce costs and the ever-present drive to improve quality for patients.

BUILDING COORDINATED NETWORKS OF CARE TO BENEFIT PATIENTS AND COMMUNITIES

Patients deserve a high-value, high-performing health care system. The key to transforming health care delivery is increased efficiency and quality. In some communities and for certain hospitals, consolidation may be necessary – not only to meet the current health needs of patients and communities – but also to provide a stable foundation upon which to build the health care system of the future.

An analysis released in 2017 by economists at Charles River Associates found that mergers can result in efficiencies that unleash savings, innovation and quality improvement essential to transforming health care delivery. Importantly, the data also showed that mergers do not lead to a spike in revenues that some claim are the motivation for mergers.

Among the study's other key findings:

- Mergers decrease costs due to economies of scale, reduced costs of capital and clinical standardization, among other efficiencies. An empirical analysis showed a 2.5 percent reduction – equating to $5.8 million – in annual operating expenses at acquired hospitals.
- Mergers have the potential to drive quality improvements through standardization of clinical protocols and investments to upgrade facilities and services at acquired hospitals.

- Mergers typically expand the scope of services available to patients, and build upon existing organizational strengths to provide more comprehensive and efficient care.

In addition, the study found that mergers were associated with a decline in revenues per patient admission, which runs counter to some research linking higher hospital concentration with higher prices.

Meanwhile, an updated analysis from Charles River Associates in 2018 found that hospital mergers result in even greater efficiencies and savings when the acquired hospitals are in close proximity. They found that mergers of hospitals within 30 miles resulted in greater cost savings, equating to more than $6.6 million (or a 2.8 percent reduction) in annual operating expenses at acquired hospitals. They also found a statistically significant decline in revenue per admissions for mergers of nearby hospitals, as well as those located further apart, and evidence of improved quality measured by reduced readmission rates.

ENABLING HOSPITALS AND HEALTH SYSTEMS TO COMPETE WITH TECH GIANTS

The realignment in the hospital field also is fueled by the need to be competitive in a rapidly changing environment. More established technology companies, including those about which this Committee has raised market power concerns, have capitalization beyond the means of any hospital system. They also have ambitions to fundamentally disrupt how and where health care is delivered. Many of these outside companies lack roots in or any obligations to the communities they seek to serve, including those who are most vulnerable.

During the last few years, some of the nation's largest companies have entered the health care arena or expanded their footprint into new areas formerly the province of hospitals or health systems. CVS, Walmart, Walgreens, Amazon and others clearly are positioning themselves to be viewed as patients' front door to health care. Huge corporations like Berkshire Hathaway, Apple and Google, among other tech companies, have made health care a focus area for their businesses.

Hospitals and health systems' missions are to provide the highest quality of care in a coordinated manner, and also keep people well. They are leading efforts to transform care to make it more accessible, affordable and convenient … all focused on improving the patient care experience. Mergers and acquisitions are one way hospitals and health systems can create coordinated networks of care with the level of scope necessary to provide high-quality care to all patients in their communities.

For example, access to capital and other resources are essential to ensure hospitals and health systems can provide access to affordable, high-quality care. Without the injection of financial resources that only a full-fledged merger makes possible, some organizations would not be able to underwrite the transformative, value-driven and patient-centric initiatives that patients deserve, or even maintain a meaningful presence in the community.

A study by the Deloitte Center for Health Solutions and the Healthcare Financial Management Association of hospital acquisitions between 2008 and 2014 found that nearly 80 percent of the acquiring organizations made significant capital investments in the acquired facilities soon after the transaction, and nearly 40 percent used the capital to upgrade or implement clinical information systems, the top-reported use of capital. The study also found that care quality improved after an acquisition.

Hospitals and health systems are leading their own efforts to transform the way in which health care is delivered. For example, more than 40 hospital systems around the nation have established their own centers for innovation focusing both on tools and technology as well as new ideas, workflows and training techniques.

All of these developments suggest that hospitals operate in a competitive landscape that will continue to transform as more innovations hit the market. This changing landscape makes achieving scale increasingly important in order to remain competitive and deliver value to patients efficiently and effectively.

HIGHLY CONCENTRATED HEALTH INSURANCE MARKETS HAVE SPAWNED GROWTH IN HEALTH INSURANCE PREMIUMS THAT IS MORE THAN DOUBLE THE GROWTH IN HOSPITAL PRICES

Currently, the growth in health insurance premium prices is more than double that of the price growth for hospital care services – 4.5 percent compared to 1.8 percent from 2017 to 2018. Prescription drug prices grew 4.1 percent during the same period.

The fact is, hospitals' share of total health expenditures has decreased gradually over time as a percentage of total national health expenditures – declining from 42.7 percent in 1980 to 34 percent in 2016.

The numbers are inconsistent with suggestions that hospital and health system mergers and acquisitions are about increased leverage with dominant health insurers. But they are consistent with recent findings from a Health Affairs study that said "insurer monopoly is the most important predictor of premium levels and growth rates."

The numbers should not come as a surprise as 73 percent of U.S. health insurance markets are highly concentrated, based on guidelines used by the Department of Justice (DOJ) and Federal Trade Commission (FTC) to assess market competition, according to a study released in December by the American Medical Association. In 91 percent of the 380 metropolitan statistical areas (MSA) studied, at least one insurer had a commercial market share of 30 percent or more, and in 46 percent of MSAs a single insurer's share was at least 50 percent.

Recent studies have found that health insurer concentration is responsible for premium increases. For example, a recent study found that marketplace premiums were 50 percent higher, on average, in ratings areas with monopolist insurers.

These findings suggest that federal oversight of commercial health insurance companies is very sporadic, particularly in comparison to oversight of hospital merger and acquisition activity. Since 2012, the FTC has filed complaints against eight proposed hospital mergers, and investigated numerous others. At the same time, despite blocking two high-profile proposed mergers in 2017, the DOJ's Antitrust Division has not moved to alter the trend toward consolidated insurance markets.

ACADEMIC STUDIES ON HOSPITAL TRANSACTIONS ARE UNRELIABLE

A number of academic studies examining hospital transactions draw incorrect conclusions for a variety of reasons. For example, the first "The Price Ain't Right" report on the relationship between hospital prices and market structure in 2015, raised a number of questions and concerns about how the study's authors reached their conclusions. The authors released a revised version of that study last year, and it was greeted with similar concerns – and new ones – from economists who have worked on dozens of hospital transactions.

Findings from the most recent report are based on old and limited data, none of which include the payer with the biggest share in most markets, and with highly uneven geographic representation. Among the most obvious flaws is that its conclusions rely on a database that lacks Blue Cross Blue Shield information on contracts and prices. Recognizing that, the authors attempt to compensate without any success. In fact, their data show that "in markets with high Blue Cross Blue Shield share, hospital mergers are not associated with any significant change in hospital prices for Aetna, Humana, and UnitedHealth post-merger."

Other flaws include findings inconsistent with the way in which hospitals' contracts with insurers are actually negotiated. Moreover, by focusing on a single service – MRIs – instead of an entire bundle of services to evaluate prices, the authors once again fail to appreciate the dynamics involved in real-world negotiations and so their conclusions come up short once again.

CONCLUSION

Health care is changing, and hospitals and health systems are transforming to meet the evolving needs of their patients and communities. They are working to build coordinated and convenient care beyond their four walls – care that is more responsive to patient preferences and community needs than ever before, all with a focus on keeping people well so that they reach their highest potential for health. For health care to flourish in today's environment and in the future, the type of efficiencies that hospital and health system mergers and acquisitions provide are necessary to obtain meaningful cost and quality benefits and ensure that there will be community organizations able to serve patients with a full range of services, regardless of the composition of that community or its needs.