

Grace Lee
Competition Policy and Advocacy Section, Antitrust Division
U.S. Department of Justice
950 Pennsylvania Ave. N.W., Suite 3337
Washington, DC 20530

RE: Docket No. ATR 102: Request for Information on Consolidation in Health Care Markets

Dear Ms. Lee,

The American Alliance of Orthopaedic Executives (AAOE) submits these comments and recommendations on behalf of our over 1,300 members and 660 medical practices across the country whose mission is to promote quality health care practice management in the orthopedic and musculoskeletal industry. We appreciate the opportunity to provide comments on consolidation in health care.

The Problem:

In the last decade, hospital markets have continued to become more concentrated, driving up costs, worsening patient care, and posing safety concerns for hospital staff. The American Medical Association (AMA), in a 2019 study, found that 55 percent of markets experienced an increase in concentration between 2013 and 2017 and by 2017, 76 percent of hospitals were members of hospital systems. In 2020, the AMA released their yearly Physician Practice Benchmark Survey report. The AMA survey data (2020) demonstrates that, as of 2020, 49.1% of patient care physicians worked in physician-owned practices, down from 54% of physicians in the 2018 AMA survey. The 5% drop is the largest drop since AMA began their survey in 2012. The ongoing shift toward larger practice size also appears to have accelerated between 2018 and 2020. The share of physicians in practices with at least 50 physicians increased from 14.7% in 2018 to 17.2% in 2020, also the largest two-year change measured by the AMA survey since 2012.

A RAND Corporation review from 2022 found that estimated price increases associated with hospital mergers have ranged from 3 to 65 percent. These price increases apply to commercial carriers and Medicare as they can lead to higher Medicare reimbursement rates and cost, as the program often provides greater reimbursement for a service provided in a hospital outpatient department versus a freestanding physician office. In 2019, Martin Gaynor, an economics professor from Carnegie Mellon University, testified before the House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law. His testimony focused largely on the impact of consolidation on the health care industry and provided data showing that, historically, consolidation has driven up prices. In particular, he highlighted that when hospital consolidation occurs between close competitors it raises prices by as much as 17 percent and as much as 10 percent when mergers between hospitals in different markets in the same state occur. He concluded that hospital consolidation leads to higher prices and less competition as insurers and hospitals can work together to keep prices high.

As private equity groups continue to purchase hospitals, the negative influence these purchases have had on patient care has become more apparent. Private equity acquisitions of hospitals and physician practices are directly tied to adverse patient outcomes. A JAMA Network study from December 2023 used exclusively Medicare Part A claims data to analyze hospitalization outcomes at private equity-acquired hospitals compared to matched control hospitals between 2009 and 2019. They compared 662,095 hospitalizations at 51 private equity-acquired hospitals and 4,160,720 hospitalizations at 259 matched control hospitals. The study accounts for three years before and three years after a private equity acquisition. Private equity-acquired hospitals were associated with a 25.4% increase in hospital-acquired conditions. This figure was driven by a 27.3% increase in falls and a 37.7% increase in central line-associated bloodstream infections, despite placing 16.2% fewer central lines than their counterparts.

Recommendations:

AAOE is very supportive of continued efforts to understand the influence that consolidation has had on patient care, worker safety, and affordability of health care. Moving forward, CMS and HHS should pay close attention to the significant drop in patient care that arises from private equity purchases of hospital systems. Quality of care has dropped while cost has risen in these hospital systems, creating an unsustainable model for long-term stability of the health care system. We urge the FTC to encourage competition in the health care market and prevent large, private equity backed health care systems from consuming smaller health care companies at the current rate. The FTC, alongside state attorneys general, should enforce antitrust laws, like the Sherman Act, to break up mergers and prevent new ones from forming. AAOE is ready to provide thoughts and conversation on the current situation and future direction of the health care industry. We thank you for the opportunity to comment and look forward to working with CMS, HHS, and the FTC to promote a better understanding of the negative influence consolidation has on health care.

Sincerely



Joseph Matthews

President AAOE



Paul Bruning, DHA

Advocacy Council Chair