

# Hospital Consolidation

Most hospital markets are highly concentrated, largely due to consolidation. A 2018 AMA analysis of hospital market shares using 2013 and 2016 data from the American Hospital Association found that, in most markets, hospitals (or hospital systems) have large market shares. According to this analysis, a substantial majority of hospital markets are highly concentrated (92 percent in 2016), and concentration has been increasing over time. Additionally, 75 percent of hospitals were members of hospital systems in 2016.

There are potential benefits and harms resulting from horizontal hospital consolidation. Savings due to economies of scale and enhanced operational efficiencies are often cited as potential benefits. However, hospitals acquiring market power through mergers may also increase prices above competitive levels. Although not all hospital mergers impact competition, research has found that mergers in concentrated markets lead to price increases, and that price increases are significant when close competitors consolidate. Highly concentrated hospital markets may also lessen the practice options available to physicians in communities dominated by large hospital systems.

## Hospital acquisition of physician practices

A hospital acquiring a physician practice is an example of vertical hospital consolidation. The AMA monitors trends in hospital acquisition of physician practices and physician employment via its biennial Physician Practice Benchmark Surveys. AMA Benchmark Surveys found that, between 2012 and 2018, direct employment by/contracting with a hospital increased from 5.6 percent to 8.0 percent, and the share of physicians who worked in practices that were at least partially owned by a hospital increased from 23.4 percent to 26.7 percent. In the aggregate, 34.7 percent of physicians worked either directly for a hospital or in a practice at least partially owned by a hospital in 2018, up from 29.0 percent in 2012.

Vertical hospital consolidation has been found to increase prices and, in markets where prices are administered (such as Medicare), to increase total spending. Recent steps taken by the Centers for Medicare & Medicaid Services to level the site-of-service playing field between physician offices and off-campus hospital provider-based departments may have diminished a key incentive for hospitals to purchase physician practices in the future (see *Payment Variations Across Outpatient Sites of Service*).

## Promoting competition & choice

In addition to increased hospital prices, concerns regarding hospital consolidation have focused on preserving physician autonomy and physician leadership in large systems. Notably, employment preferences vary greatly among physicians, and employment by large hospital systems or hospital-owned practices remains an attractive practice option for some physicians.

The AMA is a strong advocate for competitive health care markets and antitrust relief for physicians, and maintains that health care markets should be sufficiently competitive to allow physicians to have adequate choices and practice options. AMA efforts include legislative advocacy; advocacy at the Federal Trade Commission and the US Department of Justice; and the creation of physician tools and resources. Because antitrust provides negligible remedies in hospital markets that are already highly concentrated, the AMA also pursues alternative solutions that promote competition and choice, including:

- ❖ Eliminating state certificate of need (CON) laws;
- ❖ Repealing the ban on physician-owned hospitals;
- ❖ Reducing the administrative burden to enable physicians to compete with hospitals; and
- ❖ Achieving meaningful price transparency.

## Recognizing the role of states

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Hospital markets are predominantly local, and states play a significant role in regulating them. States have their own antitrust laws, and state attorneys general and other regulators have access to the local market-level data needed to oversee and challenge proposed mergers in their states. States can take on mergers themselves or join federal antitrust efforts. Some states have approved mergers but established conditions that must be met, such as requiring merged hospitals to maintain charity care programs or capping price increases for a certain number of years. States can also reduce barriers to new competitors in hospital markets by eliminating CON laws.

The AMA is available to work with state medical associations to monitor hospital markets and review the impact of horizontal and vertical health system integration on patients, physicians, and hospital prices.

## Protecting hospital medical staffs

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Hospital consolidation may also impact existing organized medical staffs. To protect hospital medical staffs post-merger, the AMA maintains that:

- ❖ In the event of a hospital merger, acquisition, consolidation or affiliation, a joint committee with merging medical staffs should be established to resolve critical issues, including clinical services to be offered and peer review processes.
- ❖ Geographic disparities or differences in patient populations may warrant multiple medical staffs within a single hospital corporation.
- ❖ Medical staff bylaws should include successor-in-interest provisions to protect medical staffs from a hospital ignoring existing bylaws and establishing new bylaws to apply post-merger, acquisition, affiliation or consolidation.
- ❖ Physicians who seek employment as their mode of practice should strive for employment arrangements consistent with principles that actively involve physicians in integrated leadership and preservice clinical autonomy.

## AMA tools & resources

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- ✓ [AMA Principles for Physician Employment](#)
- ✓ [Annotated Model Physician-Hospital Agreement](#)
- ✓ [Joining or Aligning with a Physician-led Integrated Health System](#)
- ✓ [Unwinding Existing Arrangements](#)

## Where the AMA stands

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- The AMA supports the ability of physicians to choose their mode of practice.
- The AMA supports and encourages competition among health facilities as a means of promoting high-quality, cost-effective care.
- Antitrust relief for physicians that enables physicians to negotiate adequate payment is a top AMA priority.
- Antitrust laws should be flexible to allow physicians to engage in clinically integrated delivery models without being employed by a hospital.
- Health care entity mergers should be examined individually, taking into account case-specific variables of market power and patient needs as determined, in part, by physician input.
- Proposed mergers should be subject to rigorous review and scrutiny to determine their effects on competition and their consequences for patients and providers.

The AMA Council on Medical Service studies and evaluates the social and economic aspects of medical care and recommends policies on these issues to the AMA House of Delegates. Recent Council on Medical Service reports on hospital consolidation include:

- [Council Report 7-A-19, Hospital Consolidation](#)
- [Council Report 5-A-17, Hospital Consolidation](#)
- [Council Report 2-A-15, Physician Payment by Medicare](#)