AMERICAN MEDICAL ASSOCIATION PRIVATE PRACTICE PHYSICIAN SECTION

Resolution: 7
(A-23)

Introduced by: Dan Choi, MD

Subject: Health System Consolidation – Revisited

Referred to: PPPS Reference Committee
(, MD, Chair)

WHEREAS, The COVID-19 pandemic resulted in unprecedented human suffering on a scale unbeknownst to modern society since the 1918 Flu Pandemic with over 700,000 Americans dead nationwide while physicians suffered moral injury, burnout, exhaustion, and depression due to a lack of preparedness; and

WHEREAS, The healthcare delivery system faced massive operational challenges[1], stimulating policymakers to re-examine care delivery markets, including the harms of health system consolidation and mergers[2]; and

WHEREAS, In a large part because of mergers, the majority of Americans now live in highly concentrated health care delivery markets[3], including both hospital systems and health systems, the latter comprised of both outpatient practice chains, hospitals, and other healthcare service markets; and

WHEREAS, The harms of healthcare delivery consolidation and mergers are significant and directly negatively affect patients. Specific harms are numerous and well-documented[4], including a lack of quality benefits and decrements in patient experience[5], higher hospital prices[6], decreasing patient access and driving rising health insurance premiums, both of which harm patients; and

WHEREAS, Increasing consolidation of physicians into health systems[7,8] decreases physician control over medical practice, hampers independent practice and choices over how and where physicians practice medicine[9], and places corporations at the center of the patient-physician relationship, thus driving burnout due to a loss of control over the public environment[10]; and

WHEREAS, Systemic harms of health system and hospital consolidation are more insidious and long-term, including a loss of innovation in care delivery and productivity as manifested by over twenty years of absent labor productivity growth, a finding unparalleled by other industries[11]; and

WHEREAS, Health care delivery consolidation is a bipartisan problem, acknowledged by both Democrats[12] and Republicans[13]; and

WHEREAS, Our AMA is a national leader in addressing consolidation in healthcare and bringing the patient voice to these conversations with its “Competition in health insurance: A comprehensive study of U.S. Markets” now in its twentieth year[14]. The AMA successfully used this study in 2016 to conduct further analyses to assist the U.S. Department of Justice and

National Association of Attorneys General to successfully challenge the Anthem-Cigna and Aetna-Humana mergers[15]; and

WHEREAS, Our AMA previously committed to studying health system consolidation (Health System Consolidation D-215.984), but we now face an acceleration of hospital and health system consolidation since the beginning of the COVID19 pandemic[16] with impending mega deals and mergers on the horizon[17]; therefore be it

RESOLVED, That our American Medical Association commit to undertaking an annual report assessing nationwide health system and hospital consolidation in order to assist policymakers and the federal government in assessing rapidly evolving and accelerating healthcare consolidation for the benefit of patients and physicians who face an existential threat from healthcare consolidation (Directive to Take Action); and be it further

RESOLVED, That an AMA annual report on nationwide hospital consolidation will be modeled after the "Competition in health insurance: A comprehensive study of U.S. Markets" in its comprehensiveness to include for example such data and analyses as:

1. A review of the current level of hospital and/or health system consolidation at the level of all metropolitan statistical areas, state, and national markets;
2. A list of all mergers and acquisition transactions valued above a set threshold amount resulting in hospital and/or health system consolidation;
3. Analyses of how each transaction has changed or is expected to change the level of competition in the affected service and geographic markets;
4. Analyses of healthcare costs and prices have changed in affected markets after a large consolidation transaction has taken place (Directive to Take Action); and be it further

RESOLVED, That our American Medical Association report the findings of this study to the House of Delegates by Annual 2024 (Directive to Take Action); and be it further

RESOLVED, That our American Medical Association report the findings of this study to its members and stakeholders, including policymakers and legislators, to inform future healthcare policy (Directive to Take Action).

Fiscal Note: TBD

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RELEVANT AMA POLICY

Hospital Consolidation H-215.960

Our AMA: (1) affirms that: (a) health care entity mergers should be examined individually, taking into account case-specific variables of market power and patient needs; (b) the AMA strongly supports and encourages competition in all health care markets; (c) the AMA supports rigorous review and scrutiny of proposed mergers to determine their effects on patients and providers; and (d) antitrust relief for physicians remains a top AMA priority; (2) will continue to support actions that promote competition and choice, including: (a) eliminating state certificate of need laws; (b) repealing the ban on physician-owned hospitals; (c) reducing administrative burdens that make it difficult for physician practices to compete; and (d) achieving meaningful price transparency; and (3) will work with interested state medical associations to monitor hospital markets, including rural, state, and regional markets, and review the impact of horizontal and vertical health system integration on patients, physicians and hospital prices.

Citation: CMS Rep. 7, A-19; Reaffirmed: I-22

Health Care Entity Consolidation D-383.980

Our AMA will (1) study the potential effects of monopolistic activity by health care entities that may have a majority of market share in a region on the patient-doctor relationship; and (2) develop an action plan for legislative and regulatory advocacy to achieve more vigorous application of antitrust laws to protect physician practices which are confronted with potentially monopolistic activity by health care entities.

Citation: BOT Rep. 8, I-15

Hospital Merger Study H-215.969

1 It is the policy of the AMA that, in the event of a hospital merger, acquisition, consolidation, or affiliation,
a joint committee with merging medical staffs should be established to resolve at least the following issues:
(A) medical staff representation on the board of directors;
(B) clinical services to be offered by the institutions;
(C) process for approving and amending medical staff bylaws;
(D) selection of the medical staff officers, medical executive committee, and clinical department chairs;
(E) credentialing and recredentialing of physicians and limited licensed providers;
(F) quality improvement;
(G) utilization and peer review activities;
(H) presence of exclusive contracts for physician services and their impact on physicians' clinical privileges;
(I) conflict resolution mechanisms;
(J) the role, if any, of medical directors and physicians in joint ventures;

(K) control of medical staff funds;
(L) successor-in-interest rights;
(M) that the medical staff bylaws be viewed as binding contracts between the medical staffs and the hospitals; and

2. Our AMA will work to ensure, through appropriate state oversight agencies, that where hospital mergers and acquisitions may lead to restrictions on reproductive health care services, the merging entity shall be responsible for ensuring continuing community access to these services.

Citation: CMS Rep. 5, I-01; Reaffirmed: CMS Rep. 7, A-11; Appended: Res. 3, I-13; Reaffirmed: CMS Rep. 07, A-19

Physicians' Ability to Negotiate and Undergo Practice Consolidation H-383.988

Our AMA will: (1) pursue the elimination of or physician exemption from anti-trust provisions that serve as a barrier to negotiating adequate physician payment; (2) work to establish tools to enable physicians to consolidate in a manner to insure a viable governance structure and equitable distribution of equity, as well as pursuing the elimination of anti-trust provisions that inhibited collective bargaining; and (3) find and improve business models for physicians to improve their ability to maintain a viable economic environment to support community access to high quality comprehensive healthcare.

Citation: Res. 299, A-12; Reaffirmed: Res. 206, A-19

Health System Consolidation D-215.984

Our AMA will: (1) study nationwide health system and hospital consolidation in order to assist policymakers and the federal government in assessing healthcare consolidation for the benefit of patients and physicians who face an existential threat from healthcare consolidation; and (2) regularly review and report back on these issues to keep the House of Delegates apprised on relevant changes that may impact the practice of medicine, with the first report no later than the 2023 Annual Meeting.

Citation: Res. 702, A-22