Statement of

The Hospital and Healthsystem Association of Pennsylvania

for the

Pennsylvanian House of Representatives
Health Committee, Subcommittee on Health Facilities
Informational Meeting on Hospital Consolidation

Harrisburg, Pennsylvania
October 4, 2023

The Hospital and Healthsystem Association of Pennsylvania (HAP) appreciates the opportunity to provide an overview of hospital mergers and acquisitions.

Given the extraordinary challenges placed on the health care delivery system, hospital mergers and acquisitions represent a tool in stressed hospitals' toolboxes to respond to financial pressures and mitigate risk while balancing their commitment to their communities. Well-constructed mergers strive to advance the goals of providing higher quality, farther reaching, more equitable, more innovative, less costly, or more stable patient care for the communities both organizations are proud to serve.

The urgent challenge currently before the commonwealth's policymakers is to systematically strengthen the financial stability of Pennsylvania's hospitals.

At Risk: Hospital Viability

Among the significant factors contributing to consolidation activity is an ongoing and increasing threat to the financial viability of American hospitals.

This spring, the American Hospital Association (AHA) issued a report [1] that details the extraordinary financial pressures that are threatening hospitals, health systems, and patients' access to care. The strain is so significant that the authors frame it as a "new existential challenge."

The Financial Stability of America's Hospitals and Health Systems Is at Risk as the Costs of Caring Continue to Rise reports that expenses across the board increased at double digit rates during 2022 compared to pre-pandemic levels. You are likely already aware of the deep challenges related to rising workforce and pharmaceutical costs. Maybe less well known are details related to the substantial financial pressure from other essential operational requirements including, for example, medical supplies, food/nutrition, sanitation, facilities management, and information technology.

From 2019 to 2022, the national decline in hospitals' median operating margin ranged from -37 percent to -133 percent.[2] More than half of all hospitals operated at a financial loss during 2022, which the report rightly notes is "an unsustainable situation for any organization in any sector."[3]

A recent financial analysis by the Pennsylvania Health Care Cost Containment Council confirms these alarming trends in Pennsylvania. Its June report[4] documents that 39 percent of Pennsylvania hospitals posted negative operating margins in fiscal year 2022, which means that the hospitals lost money providing care. In addition to that 39 percent, another 13 percent had margins of less than 4 percent, which is generally considered the minimum necessary to be sustainable for the long term.

On average, labor accounts for roughly half of a hospital's budget. The health care labor market has experienced a fundamental shift during the past five years. We all know that COVID-19 has been a worldwide economic disruptor. It is not unreasonable to imagine that some of the deepest and most lasting impacts would manifest with the people, facilities, and systems who shouldered the largest share of its burden.

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[1] American Hospital Association (AHA). The Financial Stability of America's Hospitals and Health Systems Is at Risk as the Costs of Caring Continue to Rise. April 2023. Retrieved from: https://www.aha.org/system/files/media/file/2023/04/Cost-of-Caring-2023-The-Financial-Stability-of-Americas-Hospitals-and-Health-Systems-Is-at-Risk.pdf.
[2] KauffmanHall. The Current State of Hospital Finances: Fall 2022 Update. Retrieved from: https://www.kaufmanhall.com/sites/default/files/2022-09/KH-Hospital_Finances_Report-Fall2022.pdf.
[3] KauffmanHall. National Hospital Flash Report: January 2023. Retrieved from: https://www.kaufmanhall.com/insights/research-report/national-hospital-flash-report-january-2023.
[4] Pennsylvania Health Care Cost Containment Council (PHC4). Financial Analysis 2022-Volume One. June 22, 2023. Retrieved from: https://www.phc4.org/news-and-press-releases/financial-analysis-2022-volume-one-news-release/.

Experienced, exhausted professionals have exited direct-care settings and there is fierce competition to recruit and retain an increasingly scarce clinical workforce—particularly across certain specialties. Additionally, the personnel needed to support clinical professionals are being hired away by logistics and retail organizations, for example, that do not require 24/7/365 coverage and that offer extremely competitive starting pay. Hospitals are filling gaps by contracting with temporary agencies, many of which are taking advantage of market dynamics and have raised their fees to what some have called "price gouging" levels.

While the trend is not as pronounced in Pennsylvania as it is in other places, private equity firms—not constrained by the Stark law's limits on physician practices—have been acquiring physician groups and specialists at increasing rates.[5] Hospitals and health systems are closely monitoring this activity and making sure they are ready to effectively respond to broader trends in the physician market.

The cost of labor is expected to continue to rise as wages across all industries steadily increase and as recruitment and retention of the health care professionals needed to provide safe, high-quality care remains difficult and costly.

Non-labor expenses are also stressing hospital finances. Widespread inflation is driving up costs associated with pharmaceuticals, medical supplies, equipment maintenance, facilities management, and purchased-service expenses for things like clinical sub-specialties, IT support, and food services. In less than five years, non-labor expenses have increased more than 16 percent on a per patient basis.[6]

Chronic underpayment by government payors is another significant factor that exacerbates hospitals' financial distress. Nationally, during 2019, Medicare and Medicaid paid about $75.8 billion less than the cost of care, according to the AHA.[7] Here in Pennsylvania, about 63 percent of our acute care hospitals rely on government payors for at least half of their care-related revenue.[8]

[5] ModernHealthcare.com. "Specialty physician groups attracting private equity investment" by Harris Meyer. August 2019. Retrieved from: https://www.modernhealthcare.com/physicians/specialty-physician-groups-attracting-private-equity-investment.
[6] McKinsey & Company. The gathering storm: The transformative impact of inflation on the healthcare sector. September 19, 2022. Retrieved from: https://www.mckinsey.com/industries/healthcare/our-insights/the-gathering-storm-the-transformative-impact-of-inflation-on-the-healthcare-sector.
[7] AHA. "Fact Sheet: Underpayment by Medicare and Medicaid. February 2022. Retrieved from: https://www.aha.org/system/files/media/file/2020/01/2020-Medicare-Medicaid-Underpayment-Fact-Sheet.pdf#:~:text=This%20fact%20sheet%20provides%20the%20definition%20of%20underpayment,through%20a%20negotiation%20process%2C%20as%20with%20private%20insurers.
[8] HAP analysis of Pennsylvania Health Care Cost Containment Council's Financial Analysis Fiscal Year 2022, General Acute Care Hospitals

In Pennsylvania, even before the pandemic, Medicaid and Medicare paid roughly 84 cents and 81 cents, respectively, on average for every dollar that hospitals spend to provide necessary care for some of our most vulnerable neighbors.[9], [10] Merging with a hospital or health system can help some hospitals ease these financial burdens and improve patient care.

Nationally, commercial market dynamics and payor practices place stress on hospital finances. Insurers wield substantial market power in negotiating commercial rates, and new payment models come with considerable downside risk for hospitals and often do not fully account for the provision complex, high-acuity care. Excessive commercial payor administrative practices coupled with limited discharge options leave patients stranded and add to hospital costs. Risk mitigation can be achieved by serving larger, more diverse patient populations which can be particularly challenging for smaller hospitals or for facilities that are forced to reduce services or close beds due to workforce shortages.

It is not hard to envision how these and other financial stressors can collide and contribute to a downward spiral that threatens any given hospital's ability to keep its doors open and provide high-quality patient care.

The Goal: Access to Quality Care

The ideal situation for consolidation activity occurs between entities that are individually strong. In other instances, mergers and acquisitions are a tool that some health systems use to keep financially struggling hospitals open, averting bankruptcy or even closure. Kaufman Hall conducted an analysis that reveals that almost 40 percent of hospitals were financially distressed prior to merger/acquisition and that, of those, more than 80 percent of bankrupt hospitals analyzed remain in service today.[11]

Mergers can preserve local access to hospitals that serve vulnerable rural and urban communities. In many instances, but for operating under a system umbrella, hospitals could not have remained

[9] Dobson & DaVanzo. The Adequacy of Medicaid Program Payments to Hospitals in the Commonwealth of Pennsylvania. April 10, 2019. Retrieved from: https://haponlinecontent.azureedge.net/resourcelibrary/Medicaid-Program-Adequacy-Final-Report-Dobson-DaVanzo-April2019.pdf.
[10] AHA. "Fact Sheet: Underpayment by Medicare and Medicaid. February 2022. Retrieved from: https://www.aha.org/system/files/media/file/2020/01/2020-Medicare-Medicaid-Underpayment-Fact-Sheet.pdf#:~:text=This%20fact%20sheet%20provides%20the%20definition%20of%20underpayment,through%20a%20negotiation%20process%2C%20as%20with%20private%20insurers.
[11] AHA. Partnerships, Mergers, and Acquisitions Can Provide Benefits to Certain Hospitals and Communities. October 2021. Retrieved from: https://www.aha.org/system/files/media/file/2021/10/KH-AHA-Benefits-of-Hospital-Mergers-Acquisitions-2021-10-08.pdf.

in those communities. Since 2010, six rural hospitals and one urban hospital in Pennsylvania have closed, a number which would be much higher had it not been for the ability of health systems to merge.[12] The additional resources provided through affiliation help to temper challenges presented by fluctuating or low patient volumes, heavy reliance on government payors, and increased regulatory burden.

Moreover, when hospitals join systems, patients and communities often benefit from advantages that the facility was unable provide on its own—thus strengthening the continuum of care and improving patient outcomes: a win-win. As an example, leveraging the negotiating power of a system, a hospital is able to generate greater economies of scale in purchasing costly, cutting-edge equipment that it likely would not have been able to invest to purchase otherwise.

A National Council on Compensation Insurance Insights report indicates that clinical processes improve as protocols become more standardized and resources become more robust. Patients benefit from more access to specialty care and better coordination as they move along the continuum.[13], [14] A recent study published in JAMA Network Open found that certain hospital mergers are associated with lower mortality for patients admitted to the hospital for heart attack (9.4% pre-merger to 5.0% post-merger), heart failure (3.5% pre-merger to 2.7% post-merger), stroke (7.5% pre-merger to 5.8% post-merger) and pneumonia (4% pre-merger to 2.8% post-merger).[15]

Mergers are also associated with a 3.3 percent reduction in operating expenses, which helps reduce the gap between increasing expenses and insufficient payments.[16] Some of most broadly circulated reports that seek to correlate hospital consolidation and pricing are based on old claims data and represent only about 13.5 percent of covered lives.[17] More credible analysis would review current claims data and ensure representative samples of beneficiaries.

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[12] Cecil G. Sheps Center for Health Services Research, University of North Carolina. *Rural Hospital Closures.* Accessed September 29, 2023. Retrieved from: https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/

[13] NCCI.com. The Impact of hospital consolidation on medical costs. June 11, 2018. Retrieved from: https://www.ncci.com/Articles/Pages/II_Insights_QEB_Impact-of-Hospital-Consolidation-on-Medical-Costs.aspx.

[14] Deloitte.com. Hospital M&A: When done well, M&A can achieve valuable outcomes." Retrieved from: https://www2.deloitte.com/us/en/pages/life-sciences-and-health-care/articles/hospital-mergers-and-acquisitions.html.

[15] JAMA Open Network. *Quality of Care Before and After Mergers and Acquisitions of Rural Hospitals*. September 20, 2021. Retrieved from: https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2784342

[16] AHA. Hospital Merger Benefits: An Econometric Analysis Revisited. August 2021. Retrieved from: https://www.aha.org/system/files/media/file/2021/08/cra-merger-benefits-revisited-0821.pdf#:~:text=Our%20updated%20results%20indicate%20that%20these%20acquisitions%20were,at%20acquired%20hospitals%20are%20long-term%20rather%20than%20transitory.

[17] AHA. Eight Myths About Hospital Mergers and Acquisitions. February 2020. Retrieved from: https://trustees.aha.org/system/files/media/file/2020/02/fact-vs-fiction-8-myths-about-hospital-mergers-aquisitions-consolidation-0220.pdf.

Action Steps: Enhance Hospital Stability

- Enact policies that support hospitals' current, hard-working health care professionals and enable hospitals to reduce reliance on costly agency staff.

- Work to ensure Pennsylvania's health care career pipeline can supply the future talent we need to take care of the commonwealth's aging population.

- Remove unnecessary bureaucracy associated with professional licensing to get caregivers to the bedside.

- Enable health care professionals to practice to the fullest extent of their training.

- Support pilot programs that explore collaboration and promote innovation in care delivery.

- Solidify and build upon advancements made by the Pennsylvania Rural Health Model.

- Assess and adjust Medicaid and Medicare payment rates to ensure that they cover the actual cost of providing care.

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April 28, 2023

U.S. Attorney General Merrick Garland
950 Pennsylvania Avenue NW
Department of Justice
Washington, D.C. 20530

Chair Lina Khan
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Dear Attorney General Garland and Chair Khan:

We write with growing concern regarding hospital consolidations across the country and the resulting impacts on health care quality, costs, and the workforce. As members of the U.S. Senate Special Committee on Aging, we are particularly concerned about the impact of hospital consolidation on older adults and people with disabilities. We urge you to utilize the full range of your oversight and remedial authorities to defend competition and a safe and strong hospital system.

On July 9, 2021, President Biden issued an Executive Order, which included a directive for antitrust agencies to focus on hospital consolidation as part of their response to corporate consolidation. Specifically, the president urged the Department of Justice and the Federal Trade Commission to "review and revise" merger guidelines to ensure patients are not harmed. We request the Administration to provide us updates on the progress of these recommendations and priorities regarding consolidation in domestic health care markets.

While the COVID-19 pandemic contributed to the shift towards consolidation in the health care industry, this trend was occurring well before the pandemic and has contributed to these negative trends. Rapid consolidation of hospitals and health systems has become more common across the country over the past few decades. According to the American Hospital Association, between 1998 and the end of 2021, there were 1,887 hospital mergers announced, reducing the number of hospitals from 8,000 to 6,000 nationwide.[1] The top ten health systems now control nearly a quarter of the market share, and their revenue has grown at twice the rate of the rest of the market.[2] These consolidations and closures are especially stark in rural areas; since 2010, more than 151 rural hospitals have closed, including 37 over the last three years.[3]

[1] https://ldi.upenn.edu/our-work/research-updates/hospital-consolidation-continues-to-boost-costs-narrow-access-and-impact-care-quality/#:~:text=%E2%80%9CIt's%20not%20a%20new%20trend,to%20around%20just%20over%206%2C000.%E2%80%9D

[2] https://www2.deloitte.com/us/en/insights/industry/health-care/hospital-mergers-acquisition-trends.html

[3] https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/

Furthermore, health system acquisitions of physician practices have also steadily increased, including during the COVID-19 pandemic. Hospitals acquired 4,800 physician practices between January 2019 and January 2022, increasing hospital-owned practices by nine percent. As of January 2022, 74 percent of physicians work for a hospital or corporate entity, growing by 19 percent since January 2019.[4]

While the economy continues to improve under President Biden's leadership, consolidation in the health care industry at-large has driven up prices for consumers and driven down wages for workers. Evidence shows that hospitals with fewer competitors charge significantly higher prices. For example, hospitals without a competitor nearby charge 12 percent higher on average than hospitals with three or more competitors nearby. Prices in hospitals with one nearby competitor are on average 7.3 percent higher.[5] These higher prices are often not accompanied by better quality care, and studies suggest higher rates of consolidation may lead to higher mortality rates.[6] While higher rates of consolidation may promote efficiency and increase care coordination, studies show that merged hospitals and integrated systems are not less costly or higher quality than their independent peers.

Decades of health system consolidation leave communities without access to necessary care. Those most affected by downsizing and closing certain outpatient services, a common byproduct of health system consolidation, are people of color, older adults, and people with disabilities. Independent hospital closures or mergers with larger health systems occur in rural and urban areas and can cause significant strain on their communities.[7]

While higher costs and lower quality care are concerning outcomes from increasing hospital consolidation, we are also worried about the impact to the workforce. There is strong evidence that hospital mergers lead to reduced workers compensation and benefits, as well as the loss of employment options for health care workers.[8] There is a clear link between hospital consolidation and wage stagnation in one of the most critical areas of our workforce.[9] Also, the nation faces a health care workforce shortage that has been severely exacerbated by the COVID-19 pandemic. An aging workforce, burnout, and the lack of nursing faculty are all factors contributing to the overall staffing shortage, and the World Health Organization has predicted a shortfall of 15 million health care workers by 2030.

We appreciate your time and attention in answering the following questions:

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[4] https://revcycleintelligence.com/news/physician-practice-acquisitions-by-hospitals-corporations-grew

[5] https://www.judiciary.senate.gov/imo/media/doc/Gaynor_Senate_Judiciary_Hospital_Consolidation_May_19_2021.pdf

[6] https://www.judiciary.senate.gov/imo/media/doc/Gaynor_Senate_Judiciary_Hospital_Consolidation_May_19_2021.pdf

[7] https://communitycatalyst.org/posts/addressing-the-impact-of-hospital-consolidation-on-health-equity/

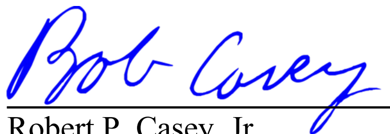
[8] https://www.aeaweb.org/articles?id=10.1257/aer.20190690

[9] https://www.aeaweb.org/articles?id=10.1257/aer.20190690

1. Since President Biden issued the Executive Order on "Promoting Competition in the American Economy" in June 2021, what specific steps has your agency or department taken to address the impact of hospital consolidation on health care costs, patient care, and the health care workforce?
2. Hospital consolidations can have greater negative impacts in certain areas, such as rural communities, and on populations that face challenges in accessing quality, affordable health care, such as people with disabilities, people with low incomes, and communities of color. In its regulatory and enforcement actions, how does your agency or department assess the impact of hospital consolidation on these communities?
3. The COVID-19 pandemic further taxed the already stressed health care workforce, and reduced competition in the health care industry has further limited their employment opportunities. In its regulatory and enforcement actions, how does your agency or department assess the impact of hospital consolidation on health care workers?
4. How do the Department of Justice (DOJ) and the Federal Trade Commission (FTC) coordinate to ensure a consistent approach to regulatory and enforcement action when addressing the effects of mergers and acquisitions in the health care industry?
5. How do the DOJ and FTC work with other federal partners, including the Department of Health and Human Services (HHS) and the Department of Labor (DOL), on issues related to hospital consolidation and its impact on patient care quality, accessibility, and the health care workforce?

Thank you for your consideration. We commend the Biden Administration for being a champion for promoting competition across the economy. We look forward to working with you to craft responsive policies that address the negative impacts of hospital consolidation on health care quality, cost, and the workforce.

Sincerely,



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United States Senator

Raphael Warnock
United States Senator

Richard Blumenthal
United States Senator

CC: DOL, HHS, White House