

HEALTHCARE PROVIDER COMPETITION

PROMOTING HIGH QUALITY, AFFORDABLE CARE

Robust competition among hospitals and other healthcare providers is vital to improving the quality of care, reducing costs, and driving innovation. Encouraging competition not only promotes affordability, but also increases access and options for patients. Policymakers should do more to protect consumers from anticompetitive trends to safeguard consumer choice.

Policymakers can do more to promote competition:

1 Reform State Policies that Advantage Dominant Market Participants


Laws should not entrench dominant hospitals and health systems, and laws shielding certain transactions from antitrust scrutiny should be repealed. For example, Certificate of Public Advantage (COPA) laws protect certain transactions from antitrust review, empowering health systems to create monopolies that harm consumers. Additionally, Certificate of Need (CON) laws are being leveraged by dominant players to increase their market share. So policymakers should heighten their scrutiny in the CON review process when a dominant market participant is involved to ensure the supply of health care services reflects the needs of the community.

2 Prohibit the Use of Anticompetitive Contracting Clauses

Dominant health systems' use of anticompetitive contracting clauses like anti-tiering, anti-steering, all-or-nothing, and most favored nation provisions limit competition among providers, which results in higher costs for patients. Policymakers should restrict providers' ability to use anticompetitive contracting clauses and allow payers to establish their networks in consumers' best interest.

3 Empower Consumers to Report Anticompetitive Practices


The FTC has a robust reporting system called Consumer Sentinel that supports the agency's, as well as other federal and state law enforcement agencies', consumer protection mission. A similar reporting mechanism should be established to support federal and state antitrust enforcement, which needs to include appropriate safeguards for information reported to be treated as confidential.




Growing research consistently finds the **consolidation of healthcare providers into health systems** with market power is a **PRIMARY DRIVER OF THE HIGH COSTS OF HEALTHCARE** in the United States. [\(Source\)](#)

Numerous studies show **PRICES INCREASE 20%–60%** following the merger of **two neighboring hospitals** with no statistically significant impacts on quality. [\(Source\)](#)



The FTC's Consumer Sentinel Network received **5.2M REPORTS IN 2022**  from consumers on **consumer protection related issues**. Reports are shared with other federal and state agencies for enforcement action. [\(Source\)](#)

ENROLLEES COULD SAVE 5% on hospital and physician spending if Congress prohibited the use of anticompetitive contracting clauses. [\(Source\)](#)



4 Unleash the Health Care Workforce

Hospitals and health systems use restrictive covenants such as non-compete agreements to limit the ability of the healthcare workforce to move to a competitor or establish a competitive practice. While reasonable restrictions serve valid business interests, lawmakers should limit hospitals' and health systems' ability to use these anticompetitive practices that bolster their market position.

5 Require Site-Neutral Payments

Consumers should be protected from paying more for the same service depending on where the care was delivered. Policymakers should require site-neutral payments, and Congress should eliminate the grandfathering exception that permits off-campus hospital departments to receive higher payment rates.

Unfair noncompete clauses are extensive in health care, affecting



37%–45%
OF PHYSICIANS. (Source)



SEVEN IN TEN of all U.S. physicians were **employed by hospitals or other corporate entities.** (Source)

Site-neutral payment policies could save patients and taxpayers



\$471B **OVER 10 YEARS.** (Source)