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Massachusetts' Hard Look at Hospital Mergers.

As consolidations have become increasingly more common across the country, Massachusetts has the nation's only independent state agency focused on evaluating their effects.

A new and unique commission in Massachusetts is bringing greater scrutiny to hospital mergers, which have grown steadily across the country in recent years and fueled fears of price hikes for consumers.

The Massachusetts Health Policy Commission, which came to life with a landmark 2012 law that sets caps on health spending increases and attempts to move away from the fee-for-service payment system, is the nation's only independent state agency that makes reform recommendations and reviews merger proposals. Its first major merger action came last month, when it discouraged a merger between Partners HealthCare and South Shore Hospital, the two largest medical providers in southeastern Massachusetts. The commission concluded that it would lead to an increase of up to \$26 million in spending and give the combined system considerable leverage negotiating prices with insurers.

Mergers between major hospital systems are increasingly more common, in part because of the Affordable Care Act's demands for greater coordination between networks of health-care providers. In three years, the number of consolidations almost doubled from 55 in 2009 to 105 in 2012, according to Irving Levin Associates, a business research firm.

A growing [body of research](#) argues hospital consolidations lead to higher prices for consumers, particularly in areas where there are already few competitors. But hospitals and lobbying groups [contend](#) that only a small percentage of mergers occur in markets that lack enough independent hospitals to maintain competition and those transactions often lead to new investments that benefit consumers or improve the finances of the smaller partner in the deal.

In the case of Partners HealthCare and South Shore Hospital, the two argued a deal would allow them to combine more services to better monitor patients across the system and improve their health through new investments in electronic records and care coordination. But the commission—which can only review mergers and send reports to the state attorney general—decided those initiatives and others won't outweigh new costs from higher prices.

"This was its first real challenge for the commission as a new public entity, and so people were watching to see if it would call the shots as it saw it or [whether it] would pull its punches and play it more politically — and they didn't [do that]", said John McDonough, a professor at the Harvard School of Public Health.

Even without the authority to halt a merger, the commission is the nation's only independent state agency that's focusing on hospital consolidation. States have always exercised some power over mergers through licensing authority, but after decades of inactivity, they'll start looking harder at mergers either through agencies or attorneys general, McDonough said.

“It appears there’s some momentum here because people understand with a lot more evidence that these mergers have consequences with health system costs, so the states that aren’t afraid of government intervention are looking more seriously at these activities,” he said.

Idaho’s attorney general recently won a judicial victory against a merger with the help of the Federal Trade Commission (FTC), and Pennsylvania’s attorney general joined the FTC to stop a deal late last year. In the Massachusetts case, Partners can’t move forward with its deal for 30 days, giving the attorney general until late March to file a suit. But it’s also possible the attorney general will work out a deal that extends that window to allow for negotiations that address the state’s antitrust concerns.

Each merger case needs to be considered on its own merits and the nature of the market where the hospital systems are based, said Robert Huckman, a professor of business administration at Harvard who specializes in health care. The ACA encourages hospital coordination and large investments in electronic health records, but those goals often require some level of consolidation, he said.

“The flip side of that is greater market concentration,” Huckman said. “There’s a balance that needs to be struck between encouraging integration but discouraging excessive consolidation.”

BY [CHRIS KARDISH](#) | MARCH 18, 2014

ckardish@governing.com @ckardish