

## AB 2080 (Wood)

### *Controlling California's High Health Costs with the Health Care Consolidation & Contracting Fairness Act*

In health care, bigger is often not better, it's just more expensive. Robust academic literature demonstrates that **health care consolidation leads to higher costs without improving quality or maintaining access to care**. AB 2080 would strengthen and extend the oversight of the California Attorney General over new health care mergers, acquisitions, and other transactions and as well as prohibiting anti-competitive contracting provisions. AB 2080 builds on the existing role of the Attorney General in giving a voice to patients and the public in hospital transactions.

#### Health Care Consolidation Leads to Less Access, Higher Prices

- When there are higher degrees of consolidation of health systems, the premiums paid are also higher as are the costs of various procedures. This means more money out of the pockets of consumers.
- Consolidation often leads to reorganization of service delivery, which can result in fewer choices for consumers and less access to care.
  - For example, past consolidation has resulted in cutting off access to care for emergency rooms, reproductive health services, labor and delivery, and LGBTQ health services – especially in more rural areas. This has been especially obvious in the oversight of non-profit hospital mergers by the California Attorneys General.

#### Protecting Patients and Payers from Anti-Competitive Practices, High Health Costs, Shuttered Services, and More

AB 2080 would prohibit specific anti-competitive behaviors by physicians, other health professionals, hospitals, health plans, and health insurers.

- AB 2080 would curb anti-competitive behavior by prohibiting practices such as “tying,” or “exclusive dealing,” anti-competitive practices that required health plans to contract with an entire hospital network and associated medical groups, regardless of the cost or quality.
- AB 2080 would also prohibit contract provisions that prevented disclosure of provider-specific cost or quality information by doctors, hospitals, health professionals or health plans and insurers about doctors, physician groups, hospitals, or health systems.
- This bill aligns the whole health industry with the pro-consumer provisions of the recent landmark Sutter settlement spearheaded by the AG's office.

## FACT SHEET: AB 2080 (Wood)

### Expanding Oversight of Health Care Mergers

AB 2080 would strengthen and expand the existing authority of the Attorney General and the Department of Managed Health Care to review health care mergers and acquisitions, building off existing law, authority, precedent, and practice.

For almost thirty years, California's Attorneys General of both parties have stepped into non-profit hospital mergers to assure that hospitals would remain open in affected communities, and important services like emergency rooms, labor and delivery, reproductive health, LGBTQ services, and more would continue to be provided. In recent years, Attorneys General Becerra and Bonta have used the Department's century-old authority over market conduct to impose conditions aimed at preventing anti-competitive behavior and excessive price increases post-merger.

AB 2080 would build on these longstanding bodies of law by expanding AG review beyond non-profit hospital mergers to also include mergers, acquisitions and other transactions involving medical groups, health systems, pharmacy benefit managers, health plans, health insurers, and hospitals. This includes oversight over for-profit, district and public hospitals for transactions valued at over \$5 million or transactions in which governance, control or responsibility is shifted. It does exempt non-physician health professionals or ambulatory surgery centers from this review.

As is currently the case with non-profit hospital transactions, the Attorney General could approve, deny, or "approve with conditions" any such transaction. The Attorney General would be required to hold a public meeting for transactions deemed major and would have 90 days to act. AB 2080 requires the Attorney General to look at the impact of the transaction on factors substantially similar to the review of non-profit hospital transactions, including:

- Market competition or costs for consumers, payers, or purchasers of health coverage
- Whether the transaction will improve the quality of care, and culturally appropriate care
- Whether the transaction will affect access to care or availability of care
- Whether the transaction is in the public interest
- Whether the transaction helps to maintain access in a rural area

AB 2080 also expands the authority of the Department of Managed Health Care to review mergers and acquisitions involving health plans by adding situations in which the health plan is acquiring another entity. Current law, AB 595 (Wood) of 2018 applies only when a health plan is being acquired, not when the plan is acquiring another entity.