

Protecting Accessible, Affordable, Quality Health Care through Expanded Health Care Merger Oversight

AB 1091 (Wood)

In health care, bigger isn't always better. Hospitals are merging without oversight and health systems are getting larger, but our care is getting more expensive and harder to access. By extending and strengthening the Attorney General's existing hospital merger oversight, AB 1091 would provide public scrutiny over this harmful trend and ensure that when any hospitals, health systems, and medical groups do merge, it is done in the best interest of the Californians they serve.

Higher Costs for Consumers Without Improvements in Quality

Robust research shows that health care mergers and takeovers do not improve quality or equity, but instead drive higher prices for care for consumers.ⁱ In fact, health care prices have less to do with the cost of providing care, the quality of care, or improving health outcomes and more to do with the relative size and market power of health providers allowing them to charge what they want to. Academic research shows that following a merger, prices increased 20% to 40% for hospitals and 10% to 20% for physician practices. As more health entities merge, costs are going up—taking more money out of consumers' pockets, without seeing the benefits of improved quality, and even leading to negative impacts.

Cuts in Access to Services, Including Reproductive Care

When health systems and hospitals acquire other hospitals and medical groups without oversight, they can cut services that are not considered profitable or are duplicative for the larger health system—but for patients, this can mean services are no longer available at their local hospital. In merger after merger, hospitals have proposed to cut off access to care for emergency rooms, labor and delivery services, reproductive health care, and services for LGBTQ patients, and the AG has stepped in when they have the authority, to protect access to services.

Shuttered services are exacerbated in rural areas, where the loss of a local service can significantly increase travel time to the next available option. Longer travel times to care leads to worse health outcomes.

In health care, a growing trend is the purchase of hospitals by religiously affiliated health systems. These health systems often require the facilities that they purchase to adhere to their restrictions on the provision of reproductive services including contraception, abortion, miscarriage management, tubal ligation, and gender-affirming care—reducing access to vital care for California communities. One in six hospital beds in California are in a restrictive hospital where these services are not provided or are extremely limited.ⁱⁱ

Expanding Oversight Protects Patients

California's Attorneys General of both parties have conditioned approval of nonprofit hospital mergers for nearly 30 years. AG's have conditioned mergers to keep hospitals open and ensure ongoing community access to important services like emergency rooms, labor and delivery, reproductive health, services for LGBTQ patients.

California law gives the AG oversight over nonprofit mergers where a nonprofit hospital is purchased, but other similar transactions have no such review. AB 1091 builds on the AG's nonprofit hospital merger oversight and anti-trust authority by expanding AG review to include:

- Oversight over for-profit, district and public hospitals mergers, and nonprofit hospital mergers where they buy an entity that is not a nonprofit hospital.
- Mergers, acquisitions and other transactions involving medical groups, health systems, pharmacy benefit managers, health plans, health insurers, and hospitals mergers not included under existing law.
- AG consent will be required for mergers valued at \$15 million, or more, or transactions in which governance, control or responsibility is shifted, with exemptions for non-physician health professionals or ambulatory surgery centers.

As in the AG's existing nonprofit hospital merger oversight authority, AB 1091 would allow the AG to approve, deny or "approve with conditions" any of the above transactions. The Attorney General would be required to hold a public meeting for transactions deemed major and would have 90 days to act. AB 1091 requires the Attorney General to look at the impact of the merger on factors substantially similar to the review of non-profit hospital mergers, 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, low-income community, or disadvantaged community

AG Oversight Has Protected:

Hospital ERs



Labor & delivery services



Gender-affirming care



Charity care



Critical care services



Reproductive services



Compliance with seismic standards



Affordable care



Protecting Patients and Payers from Anti-Competitive Practices that Drive Higher Health Care Costs

AB 1091 aligns the whole health industry with the pro-consumer provisions of the landmark 2021 Sutter settlement spearheaded by the AG's office. Specifically, this bill curbs anti-competitive contracting by prohibiting practices such as "tying," "exclusive dealing," or prohibiting 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.

i. [Markets or Monopolies? Considerations for Addressing Health Care Consolidation in California \(California Health Care Foundation\)](#)
 ii. [Percentage of Hospital Beds in Catholic Hospitals in 2016 \(ACLU.org\)](#)