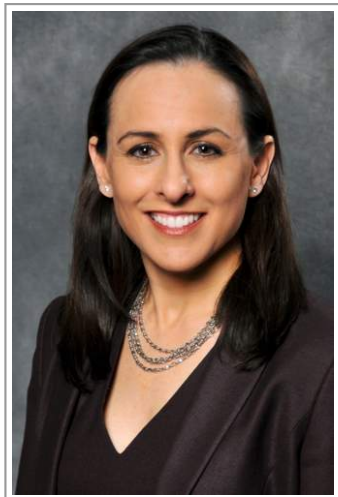


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Leemore Dafny: The importance of a competitive health care sector



Leemore Dafny

If Gov. Earl Ray Tomblin signs a bill passed by the state Legislature, a pending hospital merger in Huntington will be approved over the objections of antitrust officials.

Signing that bill might be good short-term politics, but it could have dire implications for West Virginia employers and consumers. A veto would signal that lobbying and politicking does not trump the public interest in an efficient health care sector in West Virginia.

Senate Bill 597 would exempt Cabell Huntington Hospital's proposed acquisition of its closest rival, St. Mary's Medical Center, from state and federal antitrust laws.

There is a reason why the Federal Trade Commission has objected to this merger and a reason why these hospitals do not want to address the objections in court.

The FTC alleges the merger would result in a near-monopoly in the area. The implications: prices would likely rise, and businesses that are already financially stretched just might go under.

This projection is based on data, not paranoia. Research shows that markets with just one hospital system have prices more than 15 higher than other markets, controlling for many other factors affecting these prices.

Simply put, health care costs less when there are multiple competing sources providing it. And that's not the end of the good news when there is competition in the marketplace: quality improves, and patients feel more confident and satisfied with their care.

West Virginia cannot afford to compromise on the quality and value delivered by its health care sector. Health statistics for West Virginia fall near the bottom nationally — even though the state spends nearly one in four dollars on health care, versus one in six in the rest of the country.

This higher health care spending is breaking the backs of local businesses. Huntington ranks third out of the 306 "health care referral regions" in the country for private insurance spending per person ages 18 through 64.

One large local employer, Steel of West Virginia (with more than 500 employees), has vocally opposed the merger out of concern over the implications for health care costs.

Steel of West Virginia already faces higher prices and spending per employee than other locations of their parent company, Steel Dynamics (based in Fort Wayne, Indiana).

If health care costs are higher in Huntington than in other locations, will Steel Dynamics remain or choose to expand there? How will other local businesses thrive? The competitiveness of the state of

West Virginia, and of our nation, is threatened by high and rising health care prices.

Why have state legislators decided that this particular merger should not undergo scrutiny according to state and federal laws designed to preserve competition?

The hospitals have many supporters who would prefer that the West Virginia Health Care Authority — a state agency — decide whether to approve the merger and supervise post-merger actions of the new hospital system to “assure that the benefits are realized.”

There is no reason, argued the CEO of one of the acquiring hospitals in a recent opinion column, to believe that federal authorities are “better able to judge the impact of a transaction of prices and quality than the West Virginia agencies charged with that responsibility.”

But once mergers go through, they are nearly impossible to unwind. If the merger proceeds, prices rise, businesses may fold and the damage will be irreversible.

The FTC does not want to run health care in West Virginia — it wants to preserve competition. It believes — as do I — that competition is a better way to pursue quality and efficiency than regulation. No regulation can make an organization work as hard to improve like a competitor a few miles away.

The counterargument is that sometimes a monopoly can be more efficient (e.g., lower costs and/or raise quality, perhaps due to larger scale), and if regulation or other circumstances can ensure the benefits are passed through to consumers, such a merger could be good for the community.

This is the debate that produced the Sherman Antitrust Act of 1890 and the Clayton Antitrust Act of 1914. The courts — not regulatory bodies — should determine whether the merger in Huntington violates these statutes. These laws are designed to protect all markets, including those in the health care industry.

The FTC trial is slated to begin next month, and a decision can be expected by fall. If Gov. Tomblin signs the bill into law, neither side will make its case, and the state of West Virginia will have provided health care systems around the country with a blueprint of how to lobby their way out of federal laws designed to protect our markets.

That signature would not only serve the people of West Virginia poorly — it would set a dangerous precedent for the rest of the country.

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