Antitrust In Medicine

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Since 2000, we as U.S.-based physicians have seen a dramatic rise in health system (hospital) and insurer mergers. Just recently, the American Medical Association (AMA) issued a statement to the United States Department of Justice (DOJ) to block the planned mergers of health insurance giants Anthem and Cigna and Aetna and Humana. The AMA cited Section 7 of the Clayton Act which prohibits mergers and acquisitions that substantially decrease competition while increasing problems for patients and physicians. The proposed mergers reduce patient choice and directly contradict the Patient Protection and Affordable Care Act (PPACA) which at its core, attempts to put consumers back in charge of their own health care. These proposed insurer mergers will impact the national market as we potentially go from five major private payers to three; the unintended consequences of these mergers have not yet been quantified relative to lost future potential competition.

Professor Leemore Dafny, a healthcare economist at the Kellogg School of Management at Northwestern University testified before the U.S. Senate that consumers should expect higher insurance premiums while physicians receive less in payments and overall job reductions in the healthcare sector. This opinion has been echoed by AMA President, Steven J. Stack, MD who stated, "A lack of competition in health insurer markets is not in the best interests of patients or physicians."

"Greater efficiencies" of monopoly and monopsony/merger have not historically been recognized by the U.S. Supreme Court, however, we have recently witnessed the "legitimacy" of Obamacare upheld by our judicial branch of government. We as physicians can individually unify our voice through advocacy against insurer mergers before State Attorney Generals and the National Association of Attorney Generals (NAAG).

Similarly, hospital mergers have expanded rapidly to brace for the impact of insurer mergers and Obamacare. As these combined mergers collide, consumers and providers are crushed in the handshake. The DOJ has never before faced mergers sufficient to destroy competition by merger transactions. Health systems are crossing state lines; data supporting the hospital merger success is subject to interpretation as the reasons for merger are purported to achieve their "clinical mission." Merging health systems put forth a perception of transparency while conducting merger negotiations underground so as to prevent resistance. Previously, such health system mergers were effective only to stop a hospital from going under. In general, consolidation does not generate money in health systems; health system mergers do however increase savings by approximately 14% after two years. Health system mergers have broad consequences and unknown costs. Now such health system mergers may at times negatively impact academic faculty, medical education/training, and the ultimate practice patterns of the future physician workforce and patient outcomes. The AMA must not look the other way on health system mergers.

Physicians are already experiencing decreased time with patients, postponement of new equipment or practice expansion and reductions in staff in order to meet practice expenses and EMR documentation while transitioning to new "value based payments." Furthermore, physicians are more motivated to seek opportunities outside medicine or to retire early. Physicians must instead become leaders, regain our dignity through sustainable practices and relentlessly advocate for our patients. By being a member of the AMA House of Delegates, ISASS has magnified the surgeon voice and broadened member access to useful tools available through the AMA.

References:

"The Educational Implications of Hospital/Health System and Insurer Mergers" hosted by AMA-APS

AMA House of Delegates, Order of Business First Session