



**Request for Information on Merger Enforcement  
Federal Trade Commission and Department of Justice  
April 14, 2022**

The Partnership to Empower Physician-Led Care (PEPC) is a membership organization dedicated to supporting value-based care to reduce costs, improve quality, empower patients and physicians, and increase access to care for millions of Americans through a competitive health care provider market. We believe that it is impossible to achieve truly value-based care without a robust independent practice community. Our members include Aledade, American Academy of Family Physicians (AAFP), California Medical Association, Florida Medical Association, and Medical Group Management Association (MGMA). We also have individual and small medical group supporters across the country, many of whom are independent physicians or practices and wish to remain so.

We believe that physicians – especially independent physician practices – are the lynchpin of our nation’s health care system. Independent physicians have repeatedly demonstrated their superior ability to generate positive results in value-based care arrangements, both in improved health outcomes and reduced costs. In our vision of the future, this important piece of the health care system not only survives, but thrives as a result of policies that place independent physicians on a level playing field with other providers and opportunities to test new models with components that reflect their unique circumstances.

However, consolidation in the health care sector has put the future of independent practice at risk. Increasing consolidation in the hospital and provider markets creates greater urgency for increased antitrust enforcement to ensure the survival of independent practices. In recent years, there has been a historic pendulum swing between employed physicians and private practice. In 2021, for the first time, the [American Medical Association](#) found that less than 50 percent of physicians in the U.S. are in independent practice. Between July 2020 and January 2021, the rate at which hospitals employ physicians [increased by 3 percent](#). Already in 2016, [ninety percent](#) of hospital markets were considered highly concentrated by DOJ and FTC guidelines. The situation has only worsened since then, as private equity firms and other players have redefined what consolidation looks like in health care.

We appreciate that the Federal Trade Commission (FTC) and Department of Justice (DOJ) are taking the time to review merger guidelines. We believe that robust antitrust enforcement is necessary for promoting competition in the health care sector. Given our specific area of focus, we focus our response on how the changing health care landscape merits considering additional factors for antitrust enforcement in the health care sector.

***Has the guidelines’ framework been interpreted unduly narrowly as focusing primarily on the predicted price outcome of a merger? Are there nonprice effects that are not adequately analyzed by analogy to price effects, and how should the guidelines address such effects? What evidence should the guidelines consider in evaluating these effects?***

While it is certainly true that merger activity in the health care sector [increases](#) prices, there are other factors that should be considered when evaluating mergers in the health care sector. With the increasing focus on health equity in health care, we cannot ignore the impacts of mergers on health care quality and access. PEPC urges the FTC to broaden their factors for consideration beyond just price to include quality and access.



Health care quality and access can be impacted by merger activity. Studies have shown as [competition decreases](#) in health care markets, rates of mortality and major health setbacks increases. When cardiology markets are [more concentrated](#), Medicare beneficiaries who had been treated for hypertension were more likely to have a heart attack, visit the ED, be readmitted to the hospital, or die. As the Administration places further importance on closing health disparities and inequitable outcomes, PEPC urges the FTC and DOJ to analyze how merger activity contributes to quality and whether consolidation exacerbates health care disparities.

Merger activity has also been shown to impact health care access. In some cases, consolidation may help a provider group stay open, as many independent practices [are facing financial difficulties](#). However, if all the providers get acquired by one group, patients may find themselves with little choice if any at all. In some cases, a patient may even find themselves out of network at the now dominant health care system in a region. Without competition, hospitals may also be incentivized to only keep the [most profitable](#) service lines and not maintain their full range of offerings, further limiting access for patients in that region. The impact of merger activity on access can be particularly acute in [rural areas](#), where patients may now have to travel further to see the types of doctors that they need. PEPC urges the FTC and the DOJ to examine potential mergers in the context of how that merger will affect access to health care services in the region.

The Administration has prioritized equity across all of its efforts. Health care quality and access can be significantly impacted by health care mergers, leaving some Americans without access to the health care they need to lead health productive lives. Considering these factors when analyzing health care sector merger activity can help to ensure that all Americans have access to quality affordable health care.

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Thank you for the opportunity to comment on the RFI. Please do not hesitate to reach out to me if the Partnership to Empower Physician-Led Care can be a resource to you. I can be reached at [kristen@physiciansforvalue.org](mailto:kristen@physiciansforvalue.org) or 202-640-5942.

Sincerely,

Kristen McGovern  
Executive Director