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Addressing High Health Care Prices: Transparency, Enforcement, and Legislation

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Nevada Patient Protection Commission



THE UNIVERSITY OF
AUCKLAND
Te Whare Wānanga o Tāmaki Makaurau
NEW ZEALAND

LAW

What if the price of food increased like the price of health care?



\$57



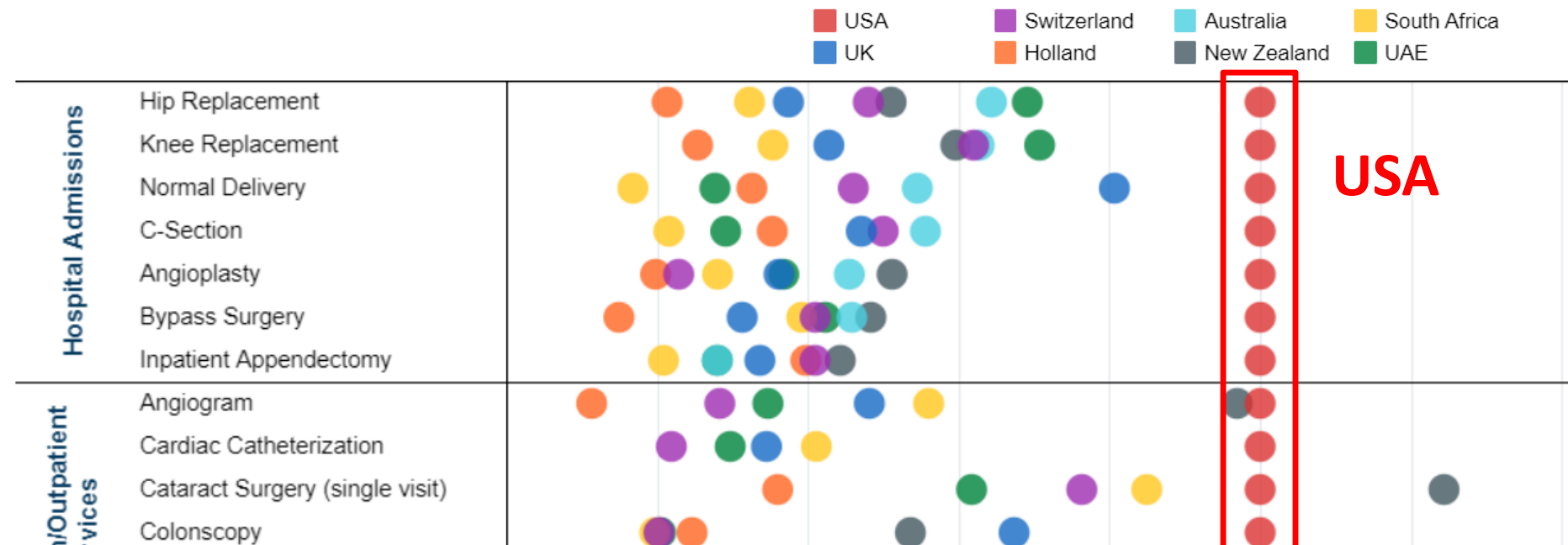
\$65



\$160

Source: Institute of Medicine, Best Care at Lower Cost: The Path to Continuously Learning Health Care in America (2013) and updated to 2019 dollars with the Federal Reserve Bank Consumer Price Index Inflation Calculator.

Figure 1: Medical Prices in 2017 as a Percent of US Prices



“Prices are the primary reason why US spends more on health care than any other country”

- Gerard F. Anderson, Peter Hussey, and Varduhi Petrosyan, *It's Still The Prices, Stupid: Why The US Spends So Much On Health Care, And A Tribute To Uwe Reinhardt*, Health Affairs 38:1 (2019)

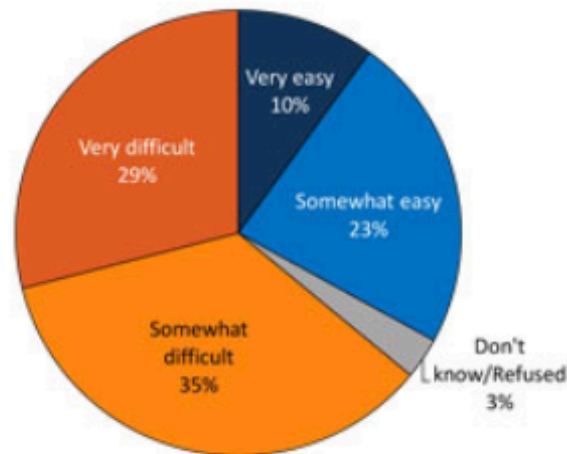
What Happened to Health Care Prices?

- Failure to protect essential elements of a free market system – price transparency and competition.
- Failure to rigorously enforce antitrust laws.
- Failure to regulate to control prices when competition no longer exists.

Failure to Protect Price Transparency

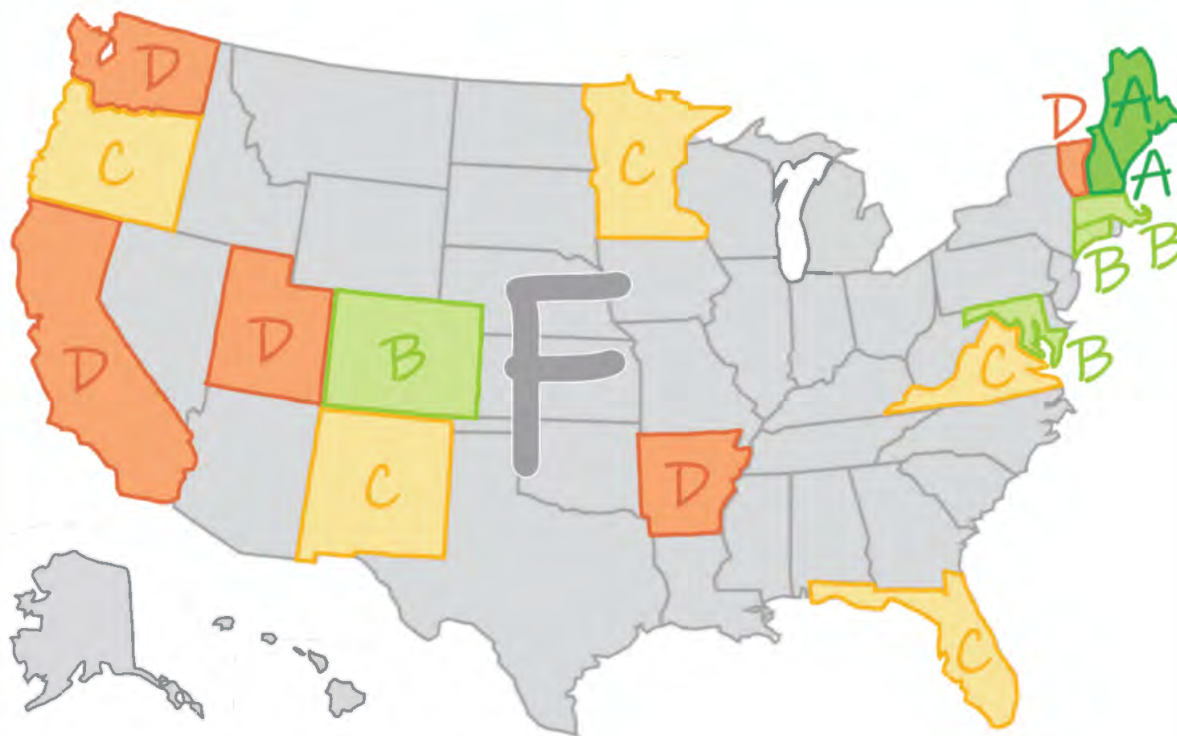
Nearly Two-Thirds Say It Is Difficult To Find Out What Medical Care Will Cost

In general, how easy or difficult would you say it is to find out how much medical treatments and procedures provided by different doctors or hospitals would cost you?



SOURCE: Kaiser Family Foundation Health Tracking Poll (conducted April 8-14, 2015)

THE 2020 REPORT CARD ON STATE PRICE TRANSPARENCY LAWS



GRADE	STATES	
A	Maine	New Hampshire
	Colorado	Connecticut
B	Maryland	Massachusetts
	Florida	Minnesota
C	New Mexico	Oregon
	Virginia	Arkansas
D	California	Utah
	Vermont	Washington
F	Alabama	Nebraska
	Alaska	Nevada
	Arizona	New Jersey
	Delaware	New York
	Georgia	North Carolina
	Hawaii	North Dakota
	Idaho	Ohio
	Illinois	Oklahoma
	Indiana	Pennsylvania
	Iowa	Rhode Island
	Kansas	South Carolina
	Kentucky	South Dakota
	Louisiana	Tennessee
	Michigan	Texas
	Mississippi	West Virginia
	Missouri	Wisconsin
	Montana	Wyoming

Antitrust Enforcement Losses Fuel Consolidation

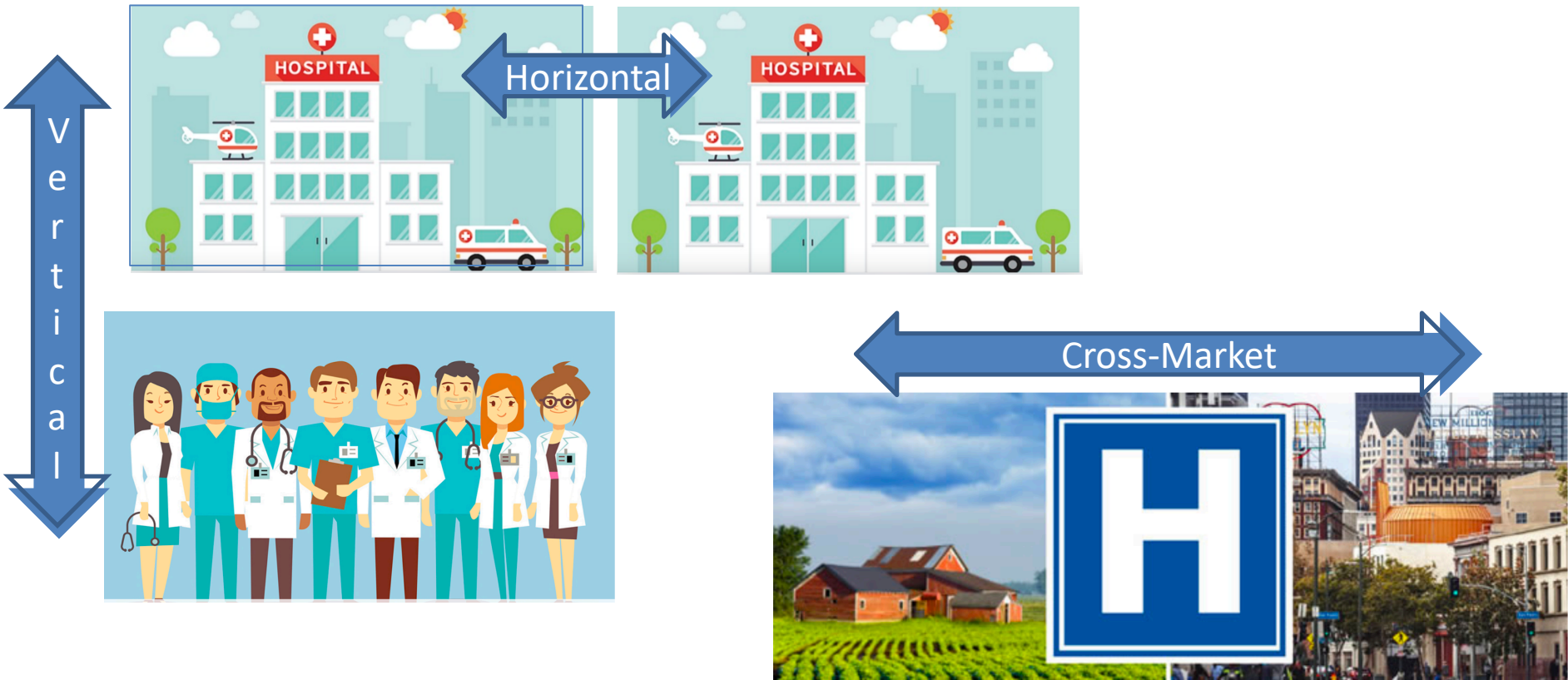
Table 1
Litigated Hospital Merger Cases

	Year	Case	Location	Blocked?
1	1989	United States v. Rockford Mem. Hosp., 717 F. Supp. 1251 (N.D. Ill. 1989), <i>aff'd</i> , 898 F.2d 1278 (7th Cir.).	Rockford, IL	Yes
2	1991	FTC v. Univ. Health, 1991-1 Trade Cases ¶ 69,400 (S.D. Ga.) and 1991-1 Trade Cases ¶ 69,444 (S.D. Ga.), <i>rev'd</i> , 938 F.2d 1206 (11th Cir. 1991).	Augusta, GA	Yes
3	1994	<i>In re</i> Adventist Health Sys. (<i>Ukiah</i>), 117 F.T.C. 224 (1994).	Ukiah, CA	No
4	1995	FTC v. Freeman Hosp., 911 F. Supp. 1213 (W.D. Mo. 1995), <i>aff'd</i> , 69 F.3d 260 (8th Cir. 1995).	Joplin, MO	No
5	1995	United States v. Mercy Health Serv., 902 F. Supp. 968 (N.D. Iowa 1995), <i>vacated as moot</i> , 107 F.3d 632 (8th Cir. 1997).	Dubuque, IA	No
6	1996	FTC v. Butterworth Health Corp., 946 F. Supp. 1285 (W.D. Mich. 1996), <i>aff'd per curiam</i> , No. 96-2440 (6th Cir. July 8, 1997).	Grand Rapids, MI	No
7	1997	United States v. Long Island Jewish Med. Ctr., 983 F. Supp. 121 (E.D.N.Y. 1997).	New Hyde Park, NY	No
8	1998	FTC v. Tenet Healthcare Corp., 17 F. Supp. 2d 937 (E.D. Mo. 1998), <i>rev'd</i> 186 F.3d 1045 (8th Cir. 1999).	Poplar Bluff, MO	No
9	2000	California v. Sutter Health Sys., 84 F. Supp. 2d 1057 (N.D. Cal.), <i>aff'd mem.</i> , 2000-1 Trade Cas. (CCH) U 87,665 (9th Cir. 2000), <i>revised</i> , 130 F. Supp. 2d 1109 (N.D. Cal. 2001).	Oakland, CA	No
10	2004	<i>In re</i> Evanston Nw. Healthcare Corp., No. 9315 (F.T.C. Aug. 6, 2007).	Evanston, IL	N/A
11	2008	<i>In re</i> Inova Health Sys. Found., No. 9326 (F.T.C. May 8, 2008).	Manassas, VA	Abandoned
12	2011	<i>In re</i> ProMedica Health Sys., No. 12-3583 (6th Cir. Apr. 22, 2014).	Toledo, OH	Yes
13	2011	FTC v. Phoebe Putney Health Sys., No. 11-12906 (11th Cir. Dec. 9, 2011), <i>rev'd</i> , No. 11-1160, slip op. (U.S. Feb. 19, 2013).	Albany, GA	No
14	2012	FTC v. OSF Healthcare Sys., No. 11 C 50344 (N.D. Ill. Apr. 5, 2012).	Rockford, IL	Yes

SOURCE: Author's review of hospital merger cases. Inova abandoned its proposed acquisition after the FTC filed suit to block the deal.

Source: Cory S. Capps, From Rockford to Joplin and back again: The impact of economics on hospital merger enforcement, 59 The Antitrust Law Bulletin 443, 449 (2014).

Healthcare Merger Mania



Healthcare Merger Mania



Horizontal (Part 1) Cross-M

- **Increased Prices:** Post-merger hospital prices increased 20-44% (Dafny, 2009; Haas-Wilson & Garmon, 2011; Tenn, 2011; Gaynor & Town, 2012)
- **Reduced Quality:** Hospital acquisition associated with modestly worse patient experiences or reduced quality (Gaynor et al. 2013; Koch et al. 2018; Short and Ho, 2019; Beaulieu, Dafny, et al., 2020)
 - California hospital mergers associated with higher inpatient mortality rates among heart disease patients (Hayford, 2011)

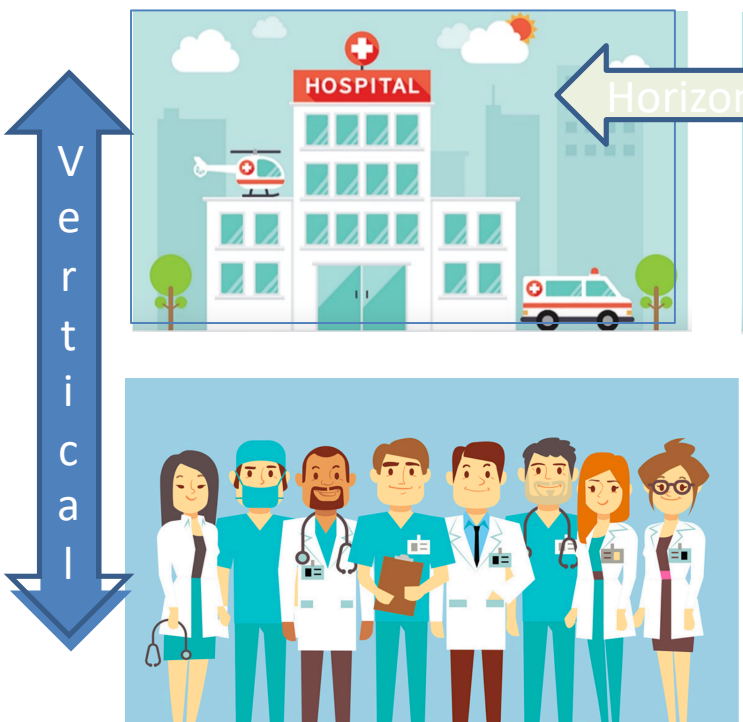
Healthcare Merger Mania



Horizontal (Part 2)

- **Increased Premiums:** Higher hospital concentration associated with higher ACA premiums (Boozary, et al., 2019)
- **Reduced Wage Growth:** Hospital mergers reduced wage growth by 6.3% for nurses and pharmacists (Prager and Schmitt, 2019)
- **Higher Costs:** Hospitals in larger systems have higher operating costs than hospitals in smaller systems (Burns et al., 2015)

Healthcare Merger Mania



Vertical

- **Higher Physician Prices:** Physician prices increase post-merger by an average of 14% (Capps, Dranove, & Ody, 2018)
 - Cardiologist prices increased by 33.5% (*Id.*)
 - Orthopedist prices increased by 12-20% (Koch and Ulrick, 2017)
- **Higher Clinic Prices:** Hospital-acquired clinic prices increased 32–47% within four years (Carlin, Feldman & Dowd, 2017)
- **Higher Hospital Prices** (Baker, Bundorf, Kessler, 2014)
- **Little to no quality improvements** (McWilliams et al. 2013; Neprash et al. 2015; Short and Ho, 2019)
- Unlikely to trigger federal antitrust review

Healthcare Merger Mania

Cross-Market

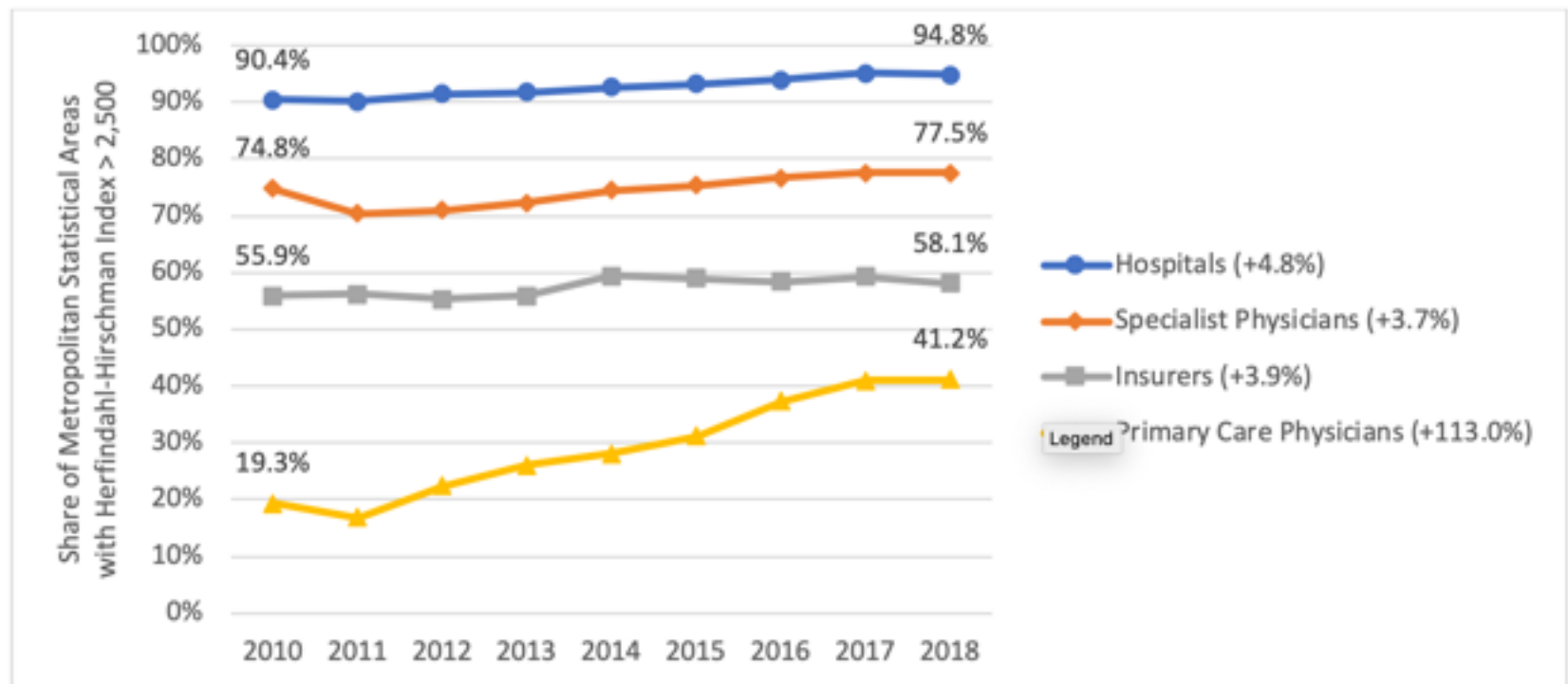
- Rising number of cross-market mergers
- **Increased Prices:** 7-17% increases in prices for independent hospitals purchased by out-of-market systems (Lewis & Pflum, 2016; Dafny, Ho, & Lee 2019)
- **Increased Competing Hospital Prices:** Price increases by 7.8% in nearby rival hospitals (Lewis & Pflum, 2016)



Cross-Market

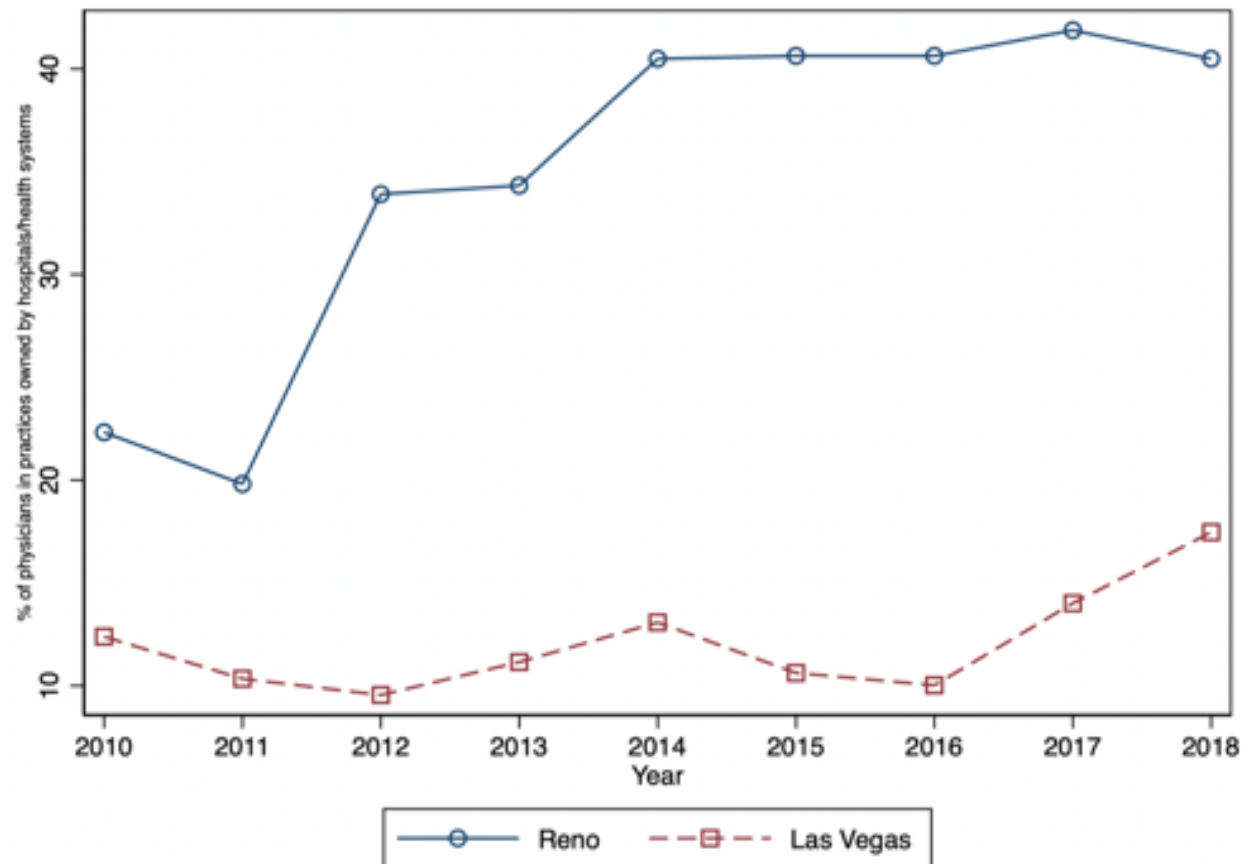
Health Care Consolidation

Figure 1: Healthcare Market Concentration Levels 2010-2018



Source: Nicholas C. Petris Center on Health Care Markets and Consumer Welfare (petris.org), University of California, Berkeley, analysis of data from the American Hospital Association Annual Survey, SK&A Office Based Physicians Database from IQVIA, and Managed Market Surveyor File from HealthLeaders InterStudy (Decision Resources Group).

Figure 8: Reno and Las Vegas Percent of Primary Care Physicians in Practices Owned by Hospitals/Health Systems, 2010-2018



Source: Authors' analysis of data from SKA's Office-Based Physicians Database.

Notes: MSA-level measures. Only cardiologists, hematologists/oncologists, orthopedists, and radiologists are included.

Reno = Reno, NV MSA

Las Vegas = Las Vegas-Henderson-Paradise, NV MSA

Inpatient Hospital Market Concentration in U.S. Metros, 2017 2017

Concentration Level **i**

UNCONCENTRATED

MODERATE

HIGH

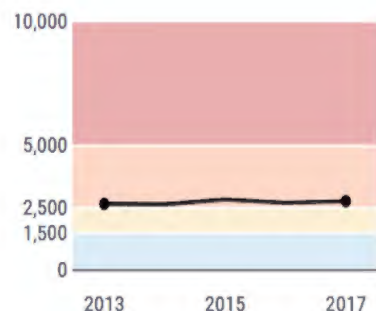
VERY HIGH

Las Vegas, NV

Las Vegas-Henderson-Paradise, NV

2017 HHI
2,736

Change since 2013
+110

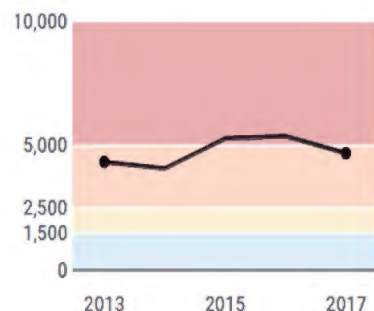


Reno, NV

Reno, NV

2017 HHI
4,663

Change since 2013
+353

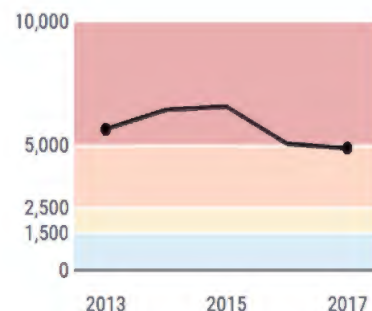


Salt Lake City, UT

Salt Lake City, UT

2017 HHI
4,864

Change since 2013
-758

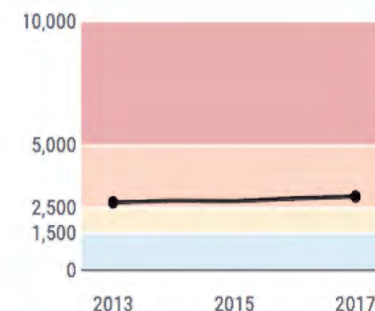


Phoenix, AZ

Phoenix-Mesa-Scottsdale, AZ

2017 HHI
2,924

Change since 2013
+237



Compare Health Care Price Levels and Growth in Select U.S. Metros

Service Category 

OVERALL

INPATIENT

OUTPATIENT

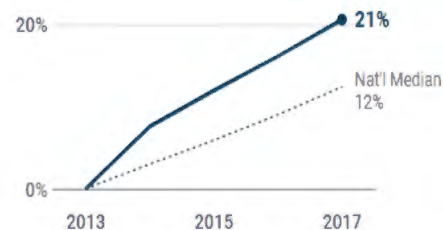
PROFESSIONAL

Las Vegas, NV

Las Vegas-Henderson-Paradise, NV

Price level
10% above
nat'l median 2017

Price Growth
+21%
since 2013

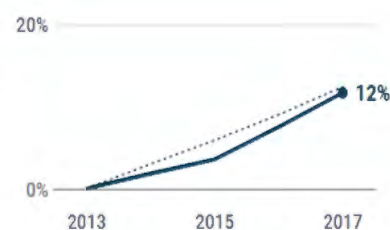


Reno, NV

Reno, NV

Price level
3% above
nat'l median 2017

Price Growth
+12%
since 2013

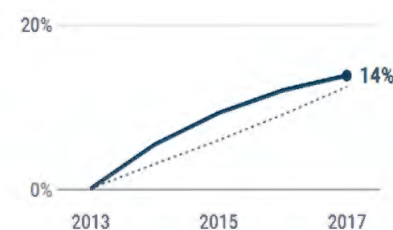


Salt Lake City, UT

Salt Lake City, UT

Price level
8% below
nat'l median 2017

Price Growth
+14%
since 2013

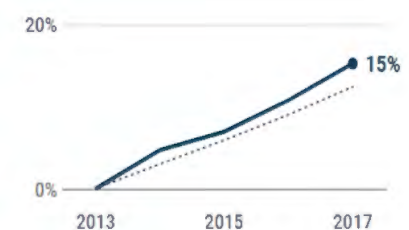


Phoenix, AZ

Phoenix-Mesa-Scottsdale, AZ

Price level
4% below
nat'l median 2017

Price Growth
+15%
since 2013





Compare Health Care Prices, Use Levels and Growth in Select Metros

Service Category ⓘ

OVERALL

INPATIENT

OUTPATIENT

PROFESSIONAL

● Las Vegas, NV

Las Vegas-Henderson-Paradise, NV

2017 OVERALL LEVELS

Price

● 10% above
nat'l median

Use

● -27% below
nat'l median

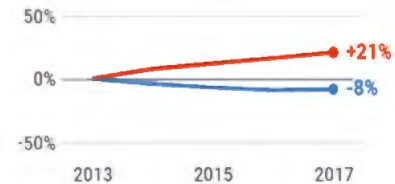
CHANGE SINCE 2013

Price

● +21%

Use

● -8%



● Reno, NV

Reno, NV

2017 OVERALL LEVELS

Price

● 3% above
nat'l median

Use

● -27% below
nat'l median

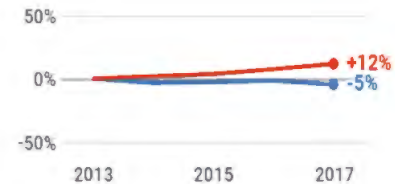
CHANGE SINCE 2013

Price

● +12%

Use

● -5%



● Salt Lake City, UT

Salt Lake City, UT

2017 OVERALL LEVELS

Price

● -8% below
nat'l median

Use

● -15% below
nat'l median

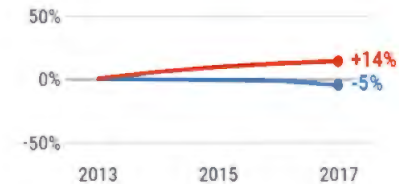
CHANGE SINCE 2013

Price

● +14%

Use

● -5%



● Phoenix, AZ

Phoenix-Mesa-Scottsdale, AZ

2017 OVERALL LEVELS

Price

● -4% below
nat'l median

Use

● -9% below
nat'l median

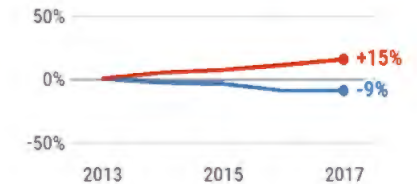
CHANGE SINCE 2013

Price

● +15%

Use

● -9%





Compare Health Care Price Levels and Growth in Select U.S. Metros

Service Category ⓘ

OVERALL

INPATIENT

OUTPATIENT

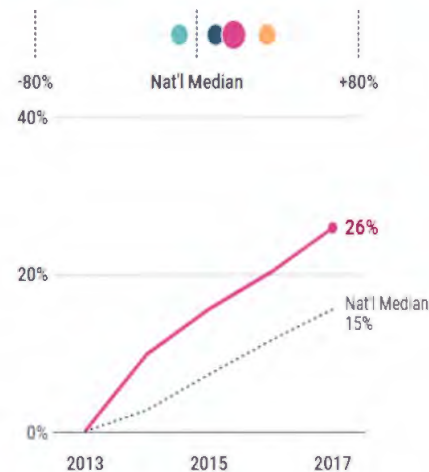
PROFESSIONAL

Las Vegas, NV

Las Vegas-Henderson-Paradise, NV

Price level
19% above
nat'l median 2017

Price Growth
+26%
since 2013

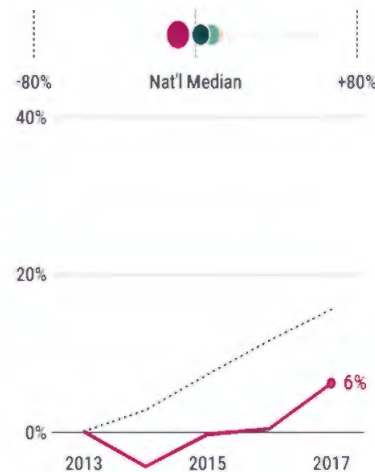


Reno, NV

Reno, NV

Price level
8% below
nat'l median 2017

Price Growth
+6%
since 2013

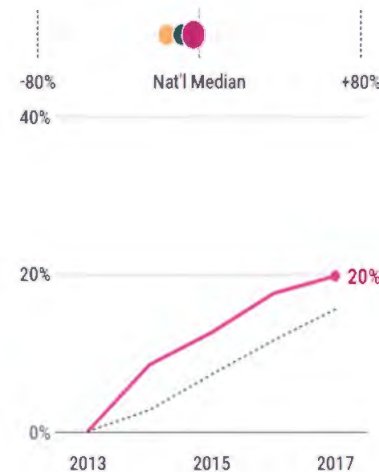


Salt Lake City, UT

Salt Lake City, UT

Price level
2% below
nat'l median 2017

Price Growth
+20%
since 2013

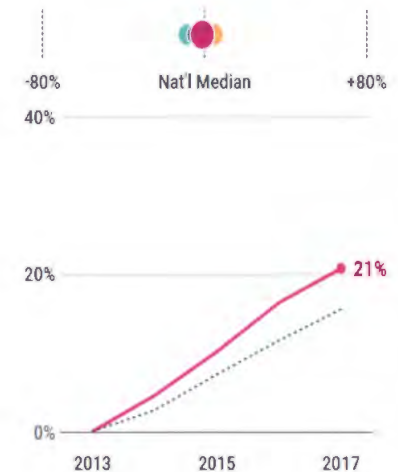


Phoenix, AZ

Phoenix-Mesa-Scottsdale, AZ

Price level
1% below
nat'l median 2017

Price Growth
+21%
since 2013



Compare Health Care Price Levels and Growth in Select U.S. Metros

Service Category ⓘ

OVERALL

INPATIENT

OUTPATIENT

PROFESSIONAL

Las Vegas, NV

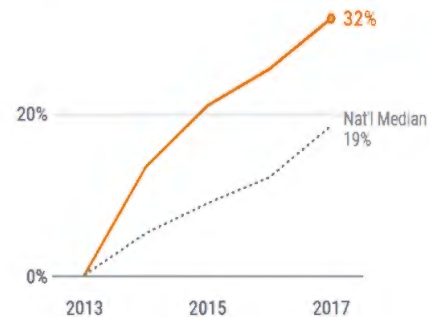
Las Vegas-Henderson-Paradise, NV

Price level

35% above
nat'l median 2017

Price Growth

+32%
since 2013



Reno, NV

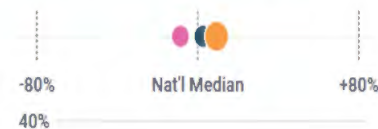
Reno, NV

Price level

10% above
nat'l median 2017

Price Growth

+26%
since 2013



Salt Lake City, UT

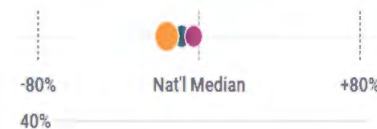
Salt Lake City, UT

Price level

16% below
nat'l median 2017

Price Growth

+20%
since 2013



Phoenix, AZ

Phoenix-Mesa-Scottsdale, AZ

Price level

5% above
nat'l median 2017

Price Growth

+20%
since 2013

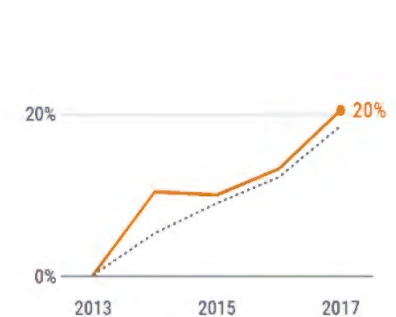
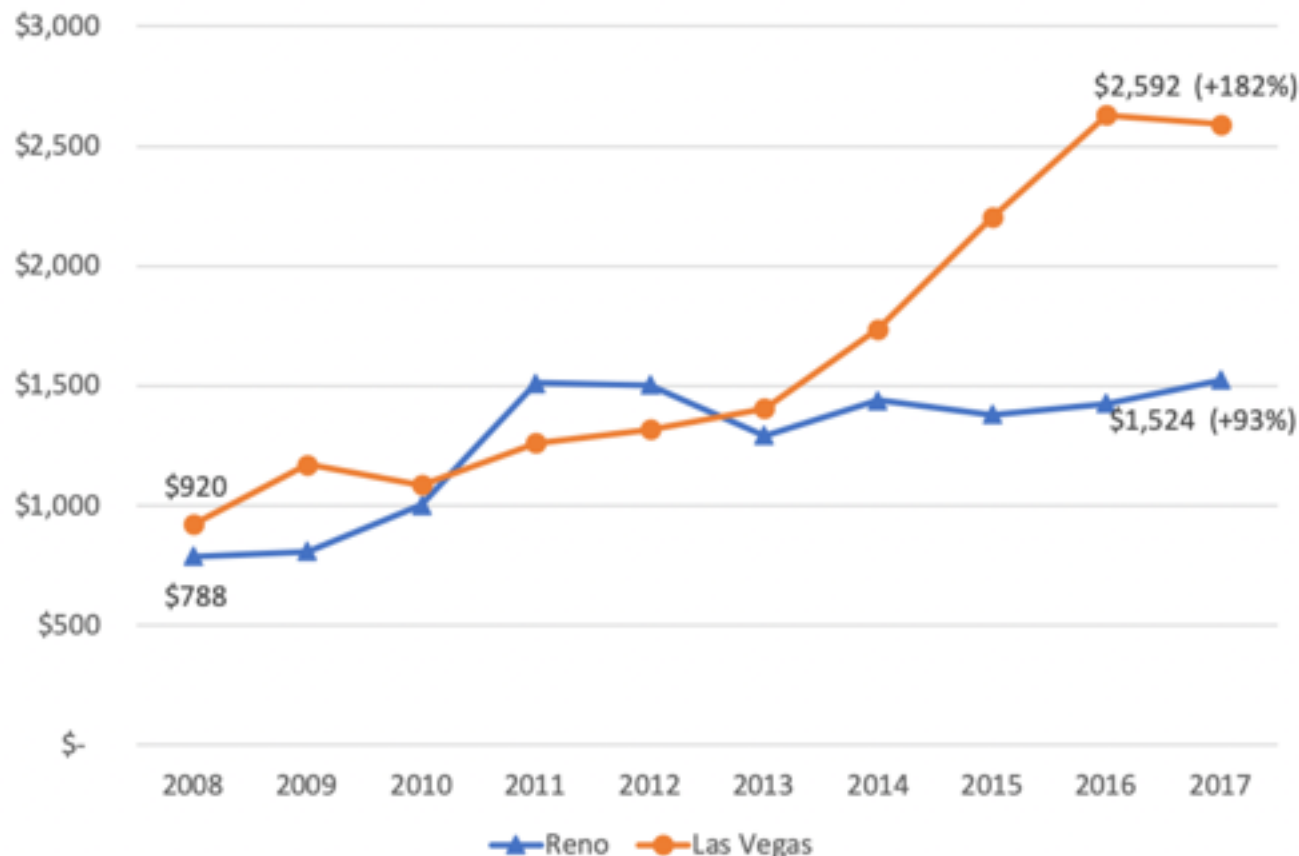


Figure 3: Reno and Las Vegas Average Price of an Emergency Room Visit (Level 5), 2008-2017



Source: Authors' analysis of data from the Health Care Cost Institute (HCCI)'s outpatient claims database.

Notes: Emergency Room Visit (Level 5) corresponds to CPT Code 99825. CPT Code 99825 was the third most common emergency room service (# claims = 934) provided in Reno in 2017 according to HCCI data. The minimum number of claims used to calculate a data point was 152.

Reno = Reno, NV MSA

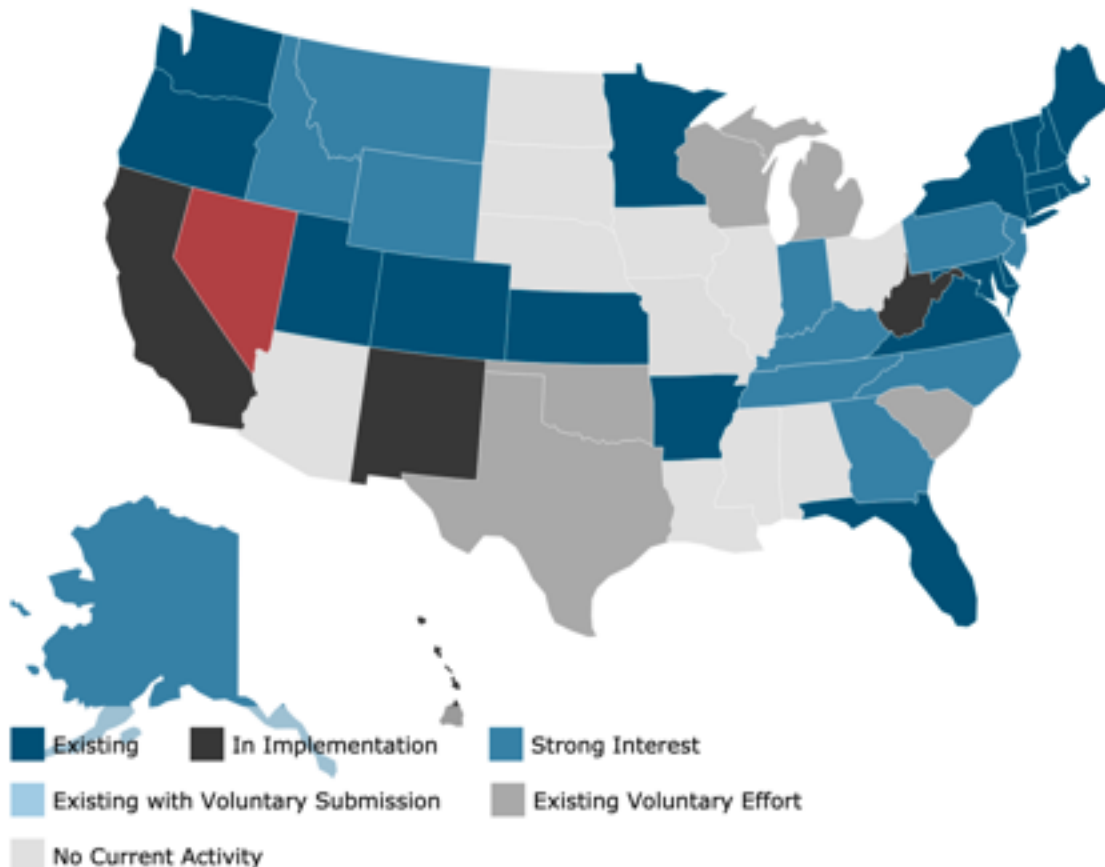
Las Vegas = Las Vegas-Henderson-Paradise, NV MSA

What can be done?

- Get the data.
- Enhance antitrust enforcement.
- Pass legislation to support competition and address market deficiencies.

Create an All Payer Claims Database

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Nevada

Nevada introduced [SB472](#) to establish an APCD in March 2019.

Category

Strong Interest

[More Information](#)

Uses for All Payer Claims Database Data

- **Consumers**

- Inform selection of "shoppable" health care services
- Promote comparison of health plans and providers

Policy and Enforcement

Provide accurate information on functioning of health care markets

- Inform merger analysis and review
- Identify the drivers of cost and track prices post consolidation
- Track utilization and price trends
- Identify low value services
- Inform policy goals and monitor policy initiatives
- Facilitate analysis of price variation
- Establish benchmark pricing

State Statutory Authority

Provider Merger

Insurance Merger

Statutory Requirement for State Insurance Commissioner Review: Click to sort by Requirements

...

State	Notice Required Prior to Merger	Approval Required for Merger Involving Insurer	Approval Standard: Hazardous to Public Interest	Approval Standard: "Substantially Lessen Competition"	Approval Standard: Quantitative Competitive Standard
Michigan	●	●	●	●	—
Minnesota	●	●	●	●	●
Mississippi	●	●	●	●	●
Missouri	●	●	●	●	●
Montana	●	●	●	●	—
Nebraska	●	●	●	●	—
Nevada	●	●	●	●	●
New Hampshire	●	●	●	●	●
New Jersey	●	●	●	●	●
New Mexico	●	●	●	●	●

 Download data

- Domestic and Nondomestic
- Domestic and All Health Plans
- Domestic Only
- Nondomestic Only
- None

State Statutory Authority

Provider Merger

Insurance Merger

Statutory Requirement for State Attorney General Review: Click to sort by Requirements

State	Pre-Merger Notice Required	Approval of Merger Required	Review of Health Access, Pricing, or Competition Required
Mississippi	—	—	—
Missouri	○	—	—
Montana	○	—	—
Nebraska	○	○	—
Nevada	—	—	—
New Hampshire	○	—	○
New Jersey	○	—	—
New Mexico	—	—	—
New York	○	○	—
North Carolina	○	—	—

 Download data

- All Hospitals and Physician Groups
- ◐ All Hospitals
- All Hospitals, Merger is Approved if AG Does Not Act
- Nonprofit Hospitals (Acquisition, Merger, or Conversion)
- Limited Review of Nonprofit Hospitals; AG or Court May Decide
- None

Notice	Review	Approval and Conditions	Post Transaction Monitoring
Broad Scope of Entities (all providers - hospitals, physicians, clinics, laboratories, etc)	Substantive Review Criteria <ul style="list-style-type: none"> - Competition - Affordability and Prices - Access - Fiduciary Duty - Public Interest 	Require Pre-Transaction Approval Can be tacit or actual depending on Tiered Level	Independent Monitors Paid for by merging entities
Broad Scope of Transactions (mergers, affiliations, “any material change”	Tiered Level of Review Depending on level of antitrust risk and size of transaction	Judicial Deference to Agency Decisions	Require Annual Compliance Reports
Multiple State Entities should receive notice	Independent Consultants		
Waiting Period	Subpoena Power		

Legislative Options

Legislation Type	Examples
Address Specific Market Imperfections	Most Favored Nations Prohibitions Surprise Billing Laws Anti-Steering Prohibitions
Improve Market Function	Price Transparency Laws/APCDs Enhance Merger Review
Market Regulation	Rate Review Rate Caps Public Option Single Payer

Takeaways

(1) Increasing consolidation has led to higher healthcare prices in Nevada.

(2) Increased transparency initiatives can inform and improve policy choices.

(3) Increased merger review and oversight can help limit further consolidation.



Thank You!

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The Source on Healthcare Price and Competition

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