

[Press Release] States Increasingly Turn to Legislation to Promote Competition and Control Health Care Prices, Per New Analysis from CPR and UC Hastings

SAN FRANCISCO, Calif. – February 25, 2020 – High commercial health care prices are a main driver of US health care spending, due in large part to consolidation among providers. While employers, other health care purchasers and payers can drive competition in the marketplace through benefit and provider network design, public policies can also strengthen and support those efforts. [Catalyst for Payment Reform](#) and [The Source on Healthcare Price and Competition](#) at UC Hastings College of the Law have catalogued state measures to enhance market competitiveness and control costs through legislation.

The report, [State Policies on Provider Market Power](#), documents the laws states have passed to address market dynamics that pose significant challenges for those who use and pay for health care. Providers with market power often can command higher prices and engage in anticompetitive behavior such as preventing the release of pricing and quality-of-care information or prohibiting benefit programs that direct patients to higher-value providers.

“While most states have antitrust statutes in place, some go further to grant the state the authority to review, prevent, monitor or mitigate the impacts of provider consolidation and

market power," said Suzanne Delbanco, executive director of CPR.

The study found:

- Twenty states have passed laws implementing mandatory all-payer claims databases, collecting health care claims data from Medicare, state Medicaid agencies, state employee and retiree agencies, and commercial insurance companies to encourage transparency on price and quality.
- Twenty states have attempted to limit providers' influence by banning "most favored nation" (a provision in a health network plan contract where the dominant health plan obtains a promise that the provider will not give equal or more favorable pricing to any other plan) contracting clauses.
- Seven states have established commissions to promote competition and control health care costs through exposing high and variable prices, implementing cost controls or overseeing provider merger activity.
- While there are an increasing number of accountable care organizations nationwide, only some states have laws governing them, including Massachusetts, New York and Texas.
- Though most states have a formal rate review program, only Rhode Island has expanded the authority of the Department of Insurance to create affordability standards.
- A growing number of states are expanding telehealth policies to address barriers to its use and to enhance competition among health care providers.

"The vast majority of innovative approaches to lowering health care costs and promoting competition are coming out of the states," said [Jaime King](#), the Bion M. Gregory Chair in Business Law and the Executive Editor of The Source on Healthcare Price and Competition at UC Hastings Law. "States

should share their ideas and collaborate to capitalize on the most successful legislative and regulatory approaches.”

The report includes two supporting appendices. Appendix A lists the search categories, along with examples. Appendix B provides a complete catalogue of the laws in place in each state. Interactive maps and continuously updated information on laws and regulations like those listed in Appendix B can be found in the [Database of State Laws Impacting Health Care Costs and Quality](#) jointly developed by CPR and The Source on Healthcare Price and Competition at the UC Hastings College of the Law with support from the Robert Wood Johnson Foundation. The publicly available database houses state legislation governing price transparency, provider market power, provider payment, provider networks, and health insurance benefits for all 50 states.

A similar analysis was first conducted by CPR in 2014 when the National Academy of Social Insurance commissioned the study. Given the continued upward trends in market consolidation and health care prices, CPR developed the 2020 report.

About Catalyst for Payment Reform

Catalyst for Payment Reform is an independent, non-profit organization working on behalf of large employers and other health care purchasers to catalyze employers, public purchasers and others to implement strategies that produce higher-value health care and improve the functioning of the health care marketplace. CPR’s diverse [membership](#) includes large private employers, state Medicaid, employee and retiree agencies and other types of health care purchasers and major benefit consulting firms. For more information visit: [catalyze.org](#) and follow us on [LinkedIn](#) and [Twitter](#).

About The Source on Healthcare Price and Competition

The Source on Healthcare Price & Competition is an independent, nonprofit initiative of the UCSF/UC Hastings

Consortium on Law, Science & Health Policy that serves as a multi-disciplinary, central resource for information and analysis about healthcare cost and competition. The Source offers a diverse array of stakeholder perspectives on the issues associated with healthcare prices and markets, such as provider leverage, antitrust enforcement, and price transparency, and aims to serve as a forum for the important discussion of change within the U.S. healthcare system. Visit The Source at sourceonhealthcare.org and follow us on [Twitter](#) and [LinkedIn](#).