Spotlight on State: North Carolina

This is part of a series of summaries that highlight notable legislation and initiatives in health policy and reform of all 50 states. Check back on The Source as we roll out additional states each week.

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North Carolina is a state that is active in antitrust enforcement in the healthcare market. In addition to prohibiting most-favored nation clauses in provider contracts, the state is also the site of a major enforcement case that alleged anticompetitive contract practice in a lawsuit against Atrium Health (formerly Carolinas Healthcare System). Joining the Department of Justice, the North Carolina state attorney general sued the provider for using illegal anti-steering and anti-tiering clauses in its contracts with insurers, which prohibited commercial health insurers in the Charlotte area from offering patients financial benefits to use less-expensive healthcare services offered by Atrium's competitors. The case settled when Defendants agreed to end their anticompetitive practices. Additionally, while noncompete agreements for physicians in North Carolina are not per se unenforceable, the Court of Appeals of North Carolina has recognized in several cases its potential for harm to the public health and found noncompetes unenforceable (see Aesthetic Facial & Ocular Plastic Surgery Ctr., P.A. v. Zaldivar and Calhoun v. WHA Med. Clinic, PLLC).

The North Carolina AG has also been active in enforcing merger oversight of healthcare providers in the state. State law requires prior notice to the state AG for healthcare transactions involving certain charitable or religious corporations and the written consent or court approval of the merger after review based on a criteria of public interest. In response to a wave of healthcare consolidation in North Carolina, the state repealed its certificate of public advantage law in 2015, which some argued have contributed to increased consolidation and market power in the provider market. Additionally, Attorney General Josh Stein released a statement in 2021 criticizing and expressing concerns over the potential impact of consolidation and warned of increased scrutiny of proposed mergers by the AG's office. For example, in HCA's acquisition of Mission Health System, the AG imposed conditions that

would permit the office to take legal action under North Carolina law should HCA fail to comply with its commitments under the consent order.

North Carolina is also a national leader in value-based payment reforms. The state implemented various alternative payment initiatives in both the public and private sectors, including Medicaid managed care alternative payment models, Medicare ACOs, BCBS North Carolina ACOs, and state employee health plan reference pricing strategy. North Carolina is on track to see alternative payment models account for 70% of healthcare payments in the state.

In health care transparency, the state legislature enacted law that requires the NC Department of Health and Human Services to publish charge information relating to the most frequently reported admissions. However, the state still lacks a legislated website such as an all payer claims database to enable consumers to make side-by-side price comparisons between providers.