

# The Source Cited in Report on What States Can Learn About Provider Consolidation from the Sutter Health Settlement

Two papers published by The Source were cited in the latest Milbank Memorial Fund report [“California’s Sutter Health Settlement: What States Can Learn About Protecting Residents from the Effects of Health Care Provider Consolidation”](#). The first, [“Addressing Health Care Market Consolidation and High Prices”](#), is co-authored by The Source’s Jaime S. King and Katherine L. Gudiksen, with Robert A. Berenson et al. for the Urban Institute. The second paper is [“Preventing Anticompetitive Healthcare Consolidation: Lessons From Five States”](#), written by Jaime S. King, Samuel M. Chang, et al. and jointly published with UC Berkeley’s Nicholas C. Petris Center on Health Care Markets and Consumer Welfare.

Additionally, The Source Executive Editor Jaime King was quoted extensively in the report:

The provisions agreed to by the parties may now help inform other efforts around the country to control the behavior of large health systems with dominant positions in health care markets. Health law scholar Jaime King said the Sutter case may act as a guide for policymakers and litigators in other states—once they are able to turn their attention to issues other than COVID-19. “I think the provisions in this case can directly lead to a road map,” she said.

Jaime King, a health law scholar recently appointed as the John and Marylyn Mayo Chair in Health Law at the University of Auckland in New Zealand, followed the Sutter case closely during her 12-year tenure at University of California, Hastings College of the Law in San Francisco. She said that what made Sutter’s strategy so powerful was its use of multiple contract terms, each reinforcing the other.

“The ‘all-or-nothing’ is most important,” King said. “The gag clauses are also

important because they prevent insurers, government, employers, or anyone else from recognizing what's happening. But it's really how the contract provisions fit together. The sum of these provisions is greater than its parts."

King believes that with time, the settlement will reverberate around the country, especially among the coalitions that employers and public payers have created to increase their leverage with health systems. She predicts that new litigation and legislative initiatives will emerge in other states, as attorneys general, legislators, and private plaintiffs study the strategies Sutter employed.

"I think the provisions in this case can directly lead to a road map, because Sutter was one of the most sophisticated in how it set up its contracts," King said. "I think that a lot of states were watching the Sutter case very closely but then the world sort of stopped in early March with COVID." She believes policymakers and litigators can examine Sutter's strategy and look for its correlates in their locales. "It allows them to say: 'Okay, these are the kinds of contract provisions that you might want to enjoin in another health system that is engaging in that behavior.' It's a great road map, but each market is different."