



The Hospital + Healthsystem  
Association of Pennsylvania

*Leading for Better Health*

June 21, 2024

The Honorable Dan Frankel  
Chair, House Health Committee  
Pennsylvania House of Representatives  
P. O. Box 202023  
Harrisburg, PA 17120-2023

The Honorable Kathy Rapp  
Republican Chair, House Health Committee  
Pennsylvania House of Representatives  
P. O. Box 202065  
Harrisburg, PA 17120-2065

Dear Chairman Frankel and Chairwoman Rapp:

On behalf of more than 235 hospital and health system members statewide, The Hospital and Healthsystem Association of Pennsylvania (HAP) strongly opposes House Bill 2344, sponsored by Representative Lisa Borowski. The bill empowers the Pennsylvania Attorney General to unilaterally determine if any material health care transaction is “against the public interest” and implements extensive, new bureaucratic requirements. The legislation also requires health care entities to foot the bill for that increased bureaucracy with no limits on what they would be mandated to pay.

Hospitals and health systems appreciate the intention—and are fundamentally committed to—protecting access to health care in all Pennsylvania communities. However, this bill, as written, presents a high likelihood for unintended, negative consequences. We are particularly concerned the legislation will have a chilling effect on the ability and willingness of more stable partners to intervene with at-risk entities and preserve high-quality care in vulnerable communities.

Hospitals across the commonwealth are grappling with the systemic failure of inadequate reimbursement rates that do not cover the cost of care and the growing expectation that their facilities be “everything to everyone.” This bill makes it harder to take steps that are often necessary to keep high quality health care available in the commonwealth.

While the overall concept of the bill is duplicative with existing state and federal processes, we also fundamentally oppose its premise. House Bill 2344 empowers a single elected official with the sole ability to determine if any material health care transaction is “against the public interest.” There are many inherent concerns with such an expanded role, as well as with the broad definition of “against the public interest,” which could realistically be applied to every transaction.

Other problematic provisions include:

- Extended notification requirements and shifting timelines that strain facilities’ day-to-day operations and create unnecessary stress for patients, staff, payors, and the community.
- An extreme \$10,000-per-day penalty for “a person, or any officer, director, partner, agency, or employee of the person” who fails to provide information.



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- Extraordinary requirements that health care entities “promptly pay” for any contracts, consultants, and administrative costs. The attorney general has the sole authority to select contractors on a noncompetitive basis and determine administrative costs.

This legislation is a solution in search of a problem. The Pennsylvania Office of Attorney General already has authority over transactions involving nonprofit health care entities.

The *Attorney General’s Review Protocol for Fundamental Change Actions Affecting Health Care Nonprofits* evaluates mergers, divisions, conversions, sales, and affiliations within the nonprofit health care community. The office’s Antitrust, Charitable Trusts and Organizations, and Health Care sections coordinate to scrutinize transactions to protect the public’s interest in charitable assets of health care entities. More than 93 percent of the commonwealth’s general acute care hospitals are already subject to this oversight.

This oversight is illustrated in Attorney General Henry’s recent public-interest intervention in the proposed acquisition of Washington Health System and the resulting *assurance of voluntary compliance* agreement. The agreement was filed in Commonwealth Court just last month and was an important signal to federal regulators, who are also reviewing the proposed activity.

Corporate transactions between hospitals—regardless of whether the entities are nonprofit—are also reviewed by the U.S. Department of Justice and the Federal Trade Commission. Health care entities must also comply with substantial mandates required by the Sherman Act, the Clayton Act, and the Hart-Scott-Rodino Act, among others.

These federal agencies are entrusted to review mergers because of their depth of experience with competitive effects in particular industries. The attorney general’s office does not have that same national perspective or experience when evaluating hospital transactions. Placing sole discretionary authority in one person with limited expertise could be a fundamental lack of due process leading to a potential constitutional challenge.

HAP and the hospital community are committed to ensuring access to care across Pennsylvania communities. The biggest threat to maintaining access to care is financial viability.

We urge all Pennsylvania policymakers to work together to productively address the underlying causes of hospital financial instability, including persistent underpayment across payers, outdated regulations that drive administrative burden and cost, and continuum-wide workforce shortages. We stand ready to work with you on these challenges.

Thank you for your time and consideration. We respectfully request that you vote against House Bill 2344 and urge your caucuses to do the same.

Sincerely,

Nicole Stallings  
President and CEO

c: Honorable Members of the House Health Committee