



The Hospital + Healthsystem
Association of Pennsylvania

Leading for Better Health

October 7, 2024

The Honorable Michele Brooks
Chair, Senate Health & Human Services
The Pennsylvania Senate
Senate Box 203050
Harrisburg, PA 17120-3050

The Honorable Art Haywood
Minority Chair, Senate Health & Human
Services
The Pennsylvania Senate
Senate Box 203004
Harrisburg, PA 17120-3004

Dear Chairwoman Brooks, Chairman Haywood, and Members of the Senate Health and Human Services Committee,

On behalf of more than 235 member hospitals and health systems, The Hospital and Healthsystem Association of Pennsylvania (HAP) writes to strongly oppose House Bill 2344.

The bill implements duplicative regulatory burdens on an already strained health care community and broadens existing powers of the Pennsylvania Office of Attorney General (OAG) in mergers and acquisitions of a of health care entities. While the proposed amendment seeks to strike a balance, this bill will still have unintended, negative consequences to Pennsylvanians' access to health care in their communities.

We appreciate the intention—and are fundamentally committed to— protecting access to health care in all Pennsylvania communities. However, HAP does not believe that the legislation addresses the core concerns driving the legislation, nor will it meet the goals intended.

The OAG already plays a role in ensuring access to care. The expansion in regulatory oversight proposed in the bill is an overreach and could ultimately threaten continued access to care, the opposite of its intended effect. The following enumerated existing authorities of the office have enabled the OAG to review and intervene in recent and ongoing hospital transactions. Therefore, HAP believes HB 2344 is a solution in search of a problem.

- The OAG already holds the authority to investigate and sue to block or unwind anticompetitive transactions under the federal antitrust laws, including Clayton Act § .
- OAG already has authority to protect and promote the public interest under current state law, including the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §§ 162.1, the Nonprofit Corporation Law of 1988, 15 Pa.C.S. §§ 5101, and the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1.
- More than 93 percent of the commonwealth's general acute care hospitals are already subject to this oversight.
- 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.



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- Transaction are also reviewed by the U.S. Department of Justice and the Federal Trade Commission.
- Health care entities must also comply with substantial federal mandates required by the Sherman Act, the Clayton Act, and the Hart-Scott-Rodino Act.

The core of this issue lies in the sustainability of hospitals across the commonwealth. The most recent data from the Pennsylvania Health Care Cost Containment Council shows **more than half** of the commonwealth's acute care hospitals are **operating at a loss**. Hospitals' basic cost to deliver care is outpacing insufficient reimbursement and they are operating within a patchwork of out-of-date hospital regulations.

- Average Medicaid reimbursement for hospitals is 82 cents on the dollar.
- Pennsylvania's hospital regulations have not been updated since 1998.

Hospitals, big and small, rural and urban, simply cannot keep service lines open and, in the worst cases, are being forced to close their doors. In this environment, mergers and acquisitions are necessary tools to invest in struggling hospitals and preserve access to care in every Pennsylvania community.

On behalf of Pennsylvania's hospital community, we respectfully ask that you vote no on House Bill 2344.

Thank you for your time and consideration. If you have any questions, please do not hesitate to contact me at swatkins@haponline.org or 814-442-7176.

Sincerely,

Stephanie Watkins
SVP, Advocacy and Policy

cc: The Honorable Lisa Borowski