

June 5, 2024

The Honorable Jonathan Kanter
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Lina Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: FTC-2024-0022: Request for Information on Consolidation in Health Care Markets

Submitted electronically via <https://www.regulations.gov>

Dear Assistant Attorney General Kanter, Chair Khan, and Secretary Becerra:

On behalf of the Society for Vascular Surgery (SVS), we are pleased to have the opportunity to submit comments in response to the “Request for Information” regarding consolidation in healthcare markets. The SVS is comprised of over 6,300 specialty trained vascular surgeons and other medical professionals who are dedicated to the prevention, longitudinal management, and cure of vascular disease. As a professional medical specialty society, we seek to advance excellence and innovation in vascular health through education, advocacy, research, and public awareness.

Vascular surgeons dedicate their training to addressing the full spectrum of vascular health and disease and as the only specialists board-certified in vascular surgery, they are patient and disease focused. They provide patient-centered care plans using a comprehensive approach, which can include: prevention, risk factor modification, medical therapy, open and endovascular surgical intervention options, and ongoing, chronic disease management. Given the natural intersection between vascular disease and an increasingly aging population, vascular surgeons (and the SVS) are

poised to play an important role to ensure the delivery of high-quality care to an expanding population. The SVS appreciates your leadership in assessing the changing healthcare landscape and examination of the market impact of consolidation, which has often resulted in higher prices and reduced access to care for patients. To assist your analysis of trends and impact of consolidation, the SVS respectfully offers the following comments:

Effects of Consolidation on Patients, Providers, and Payers

First and foremost, the SVS is dedicated to ensuring that the diverse population of patients with vascular disease have appropriate access to high quality care. While horizontal and vertical consolidation in health care may enable the development of truly integrated, efficient systems that offer patient-centered, cost-effective care, this goal has proved elusive and results on these fronts disappointing to patients and physicians, alike.¹ To the extent that consolidation may exacerbate geographic, logistical, or cost barriers to patient access to services, this accelerating trend is of great concern our organization and its members.²

One notable trend has been the impact of hospital mergers and acquisitions on price and, consequently, cost to both patients and payers.³ This has been evident both in the pricing of hospital services and that of the services rendered by an increasingly employed physician workforce. Increased cost burden for patients is a direct barrier to access and, to the extent that payers faced with increased prices may respond by increasing the patient's share of costs through premiums or other mechanisms or using coverage policies such as prior authorization to reduce utilization of services, may also indirectly harm access to care. Large systems may also choose not to maintain the full range of clinical services at all locations. Decisions to limit services may be driven by economies within the system, differential profitability of service types, and population characteristics. Such decisions may reduce access, of particular concern to those caring for the particularly vulnerable population of patients with vascular disease who tend to be older, more frail, more likely to suffer from related conditions such as diabetes, be members of minority communities, and both less resourced and more likely to rely on Medicare or Medicaid.

The impact of consolidation on the viability of independent or private practice may negatively impact patients in a number of ways. Innovation and the advent of minimally invasive therapy have enabled many interventions for vascular disease to be offered in an outpatient setting, including sites of service outside the traditional hospital, such as ambulatory surgery centers or office-based labs. In addition to the association with increased price, consolidation has the potential to reduce the number of these sites, often desirable to patients due to accessibility and lower cost, available to

¹ Beaulieu ND, Dafny LS, Landon BE et al. Changes in Quality of Care after Hospital Mergers and Acquisitions. *N Engl J Med.* 2020;382:51-59.

² Avalere Health, Updated Report: Hospital and Corporate Acquisition of Physician Practices and Physician Employment 2019-2023, April 2024

³ Beaulieu ND, Chernew ME, McWilliams JE et al. Organization and Performance of US Health Systems. *JAMA.* 2023; 329(4):325-335.

patients within a community.⁴ Physician autonomy, compensation, and mobility are all impacted by consolidation, particularly as employment is increasingly associated with contractual non-compete provisions whose implications grow as the market and geographic footprint of the employer grows.⁵⁶

Both horizontal and vertical consolidation have been driven by financial considerations that do not necessarily align with the needs of individual patients or populations. Of particular concern is the growing role of private equity in physician practice consolidation, reflecting member experience with a business model focused on rapid generation of profit through increased price and volume of services and reduction of cost. The potential for such models to reduce surgeon autonomy and subject a practice to pressures potentially poorly aligned with the mission of providing high-quality, appropriate care to the full population of patients with clinical need for treatment of vascular disease.⁷⁸

The SVS respectfully asks that the Department of Health and Human Services, Federal Trade Commission, and United States Department of Justice, when considering enforcement, policy development, or other actions, consider the concerns raised above and the impact of these transactions on both patients and providers.

Thank you for the opportunity to provide comments regarding the impacts of ongoing consolidation in the healthcare markets. We look forward to collaboration in these policy areas and remain committed to ensuring all patients have access to high-quality vascular care. If you have questions regarding these comments, please contact Megan Marcinko, SVS Sr. Director of Advocacy & Public Affairs (mmarcinko@vascularsociety.org).

Sincerely,

Margaret C. Tracci, MD JD DFSVS

Chair, SVS Advocacy Council

Joseph L. Mills, MD, DFSVS

President, Society for Vascular Surgery

⁴ Post B, Norton EC, Hollenbeck B, Buchmueller T, Ryan AM. Hospital-physician integration and Medicare's site-based outpatient payments. *Health Serv Res* 2021;56:7-15.

⁵ Whaley CM, Arnold DR, Gross N et al., Physician Compensation In Physician-Owned And Hospital-Owned Practices, *Health Affairs* 2021; 40(12):1865-1874

⁶ SVS Comments re: Notice of Proposed Rulemaking, Federal Trade Commission; Non-Compete Clause Rule; 88 Fed. Reg. 3482 (RIN: 3084-AB74) (January 19, 2023). https://vascular.org/sites/default/files/2023-05/FTC%20NPRM_Noncompete_SVS%20Comments.FINAL%20Submission.pdf

⁷ Sheahan M III, The devil we don't know: The case against private equity in medicine. *Vascular Specialist*, March 15, 2024

⁸ Sievers MT, Neevel A, Diaz AM et al. Private Equity Investment in Surgical Care, *Ann Surg* 2024, Feb 19. publish ahead of print. DOI:10.1097/SLA.0000000000006238