



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**CONCURRING STATEMENT OF
COMMISSIONER REBECCA KELLY SLAUGHTER
AND CHAIR LINA M. KHAN**

*Regarding FTC and State of Rhode Island v.
Lifespan Corporation and Care New England Health System*

Commission File No. 2110031
February 17, 2022

Today, the Commission voted unanimously to file, together with the state of Rhode Island, a complaint to block the merger of Lifespan Corporation (“Lifespan”) and Care New England Health System (“CNE”). Our staff has done a thorough investigation that has culminated in a bipartisan action to challenge a merger that we have reason to believe will extinguish competition between the two dominant hospital systems in the state of Rhode Island.

Lifespan and CNE are the largest and second largest healthcare providers in Rhode Island. As alleged, the merged entity would control at least 70 percent of the markets for inpatient general acute care (“GAC”) hospital services and inpatient behavioral health services in Rhode Island. In a broader market that includes surrounding Massachusetts towns (the “MARI area”), the parties would hold roughly 60 percent of the market for inpatient GAC hospital services and at least 50 percent of the market for inpatient behavioral health services. As the complaint alleges, the merger will eliminate the head-to-head competition among the parties in these markets that helps to keep prices lower and quality of care higher.

In addition to supporting the allegations of competitive harm in these markets, we write separately to note that we also would have supported an allegation that the effect of the proposed transaction may be to substantially lessen competition in a relevant labor market in violation of the Clayton Act. Staff’s analysis found that [REDACTED]

[REDACTED]

Just as we want firms to compete with each other to sell goods and services to their customers, we want employers to compete with each other to attract and retain workers. Just as consumers are worse off when mergers diminish competition for goods and services based on price, quality, and innovation, workers suffer when mergers diminish competition for their labor and employers are insulated from competition driving improved wages, benefits, working conditions, and other terms of employment.

Indeed, there is a growing body of empirical research about the potential for competitive harm to labor markets from consolidation and concentration.¹ The loss of competition from mergers may be especially pernicious in the health care sector where skilled medical professionals are uniquely limited in employer options within their local geographic area. Empirical research suggests that increased employer labor market power via hospital mergers can contribute to wage stagnation for skilled health care professionals.² We are grateful for the commitment of healthcare workers to serve our communities day in and day out, especially for these past two years on the front lines of the COVID-19 pandemic. They, just as all workers, deserve the protection of fair competition for their labor.

We take seriously concerns about competition in labor markets and will be vigilant in probing the effects mergers may have on competition for workers' labor. We applaud the staff for their thorough and diligent investigation of the labor market implications of this transaction, and we expect such analysis to continue in future cases.

¹ See José Azar, Ioana Marinescu, Marshall Steinbaum & Bledi Taska, *Concentration in US Labor Markets: Evidence from Online Vacancy Data*, 66 Lab. Econ. 101886 (Oct. 2020), <https://www.sciencedirect.com/science/article/abs/pii/S0927537120300907>; Ioana Marinescu and Herbert J. Hovenkamp, *Anticompetitive Mergers in Labor Markets*, 94 Ind. L. J. 1031 (2019), <https://www.repository.law.indiana.edu/ilj/vol94/iss3/5/>; Yue Qiu & Aaron J. Sojourner, *Labor-Market Concentration and Labor Compensation* (Jan. 8, 2019), <https://ssrn.com/abstract=3312197>; Council of Econ. Advisors, *Labor Market Monopsony: Trends, Consequences, and Policy Responses*, (Oct. 2016), https://obamawhitehouse.archives.gov/sites/default/files/page/files/20161025_monopsony_labor_mrkt_cea.pdf.

² Elena Prager and Matt Schmitt, *Employer Consolidation and Wages: Evidence from Hospitals*, 111(2) Am. Econ. Review 397 (Feb. 2021), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/aer.20190690>.