

# ***Arkansas Strategies to*** **Address Consolidation and Promote Competition**

## **Consolidation Oversight**

Consolidation oversight refers to the processes by which state regulators review mergers and acquisitions of health care entities to ensure they do not harm competition or increase consumer costs. This section examines whether state law or statutes require increased oversight of hospital consolidation transactions that exceed federal notification requirements, such as whether the state has the authority to approve, reject, or impose conditions on health care transactions to protect affordability and competition or if the state review standards require regulators to assess the impact of a consolidation on health care prices and affordability, not just market concentration. Specific strategies examined include:

- Transaction Notification Requirements

- Authority to Modify or Reject Consolidation Transactions

- Affordability Criteria Included in Transaction Review

## **Facility Fee Limits**

Facility fees are charges for services provided in outpatient and physician office settings that hospitals own. These fees are becoming increasingly more common as the rate of health system consolidation has accelerated. As hospitals acquire more outpatient practices, these fees are increasingly applied, raising patient costs and disproportionately affecting communities already facing financial challenges, such as rural and minority populations. States may prohibit facility fees outright, or impose other regulatory mechanisms such as facility transparency laws, requiring hospitals to disclose facility fees separately from professional service charges, or establishing limits on patient cost-sharing for facility fees. The strategies examined in this section include:

- Prohibitions on Facility Fees

- Facility Fee Transparency Laws

- Limits on Facility Fee Cost-Sharing



## Anti-Competitive Contract Provisions

Anti-competitive contracting is a pattern of contracting between health care providers and insurers where one party gains unfair advantages over potential competitors. States can enact regulations that limit dominant health systems from abusing their market power in ways that increase prices. This section evaluates whether states prohibit four types of anti-competitive contracting practices in the health system, including:

**Restrictions on All-or-Nothing Contract Provisions:** These clauses require plans to contract with all providers in a health system or none of them, even if those providers are low-value or high-cost.

**Restrictions on Anti-Tiering and Anti-Steering Contract Provisions:** These clauses require insurers to place favored providers in higher tiers regardless of cost or quality (anti-tiering) and restrict directing patients to higher value care from competitors (anti-steering).

**Restrictions on Most Favored Nation Clauses:** These clauses require health systems to agree to not to offer lower prices to competing insurers, preventing them from providing services at a lower price. These provisions may allow insurers and providers to collude to raise prices.

**Restrictions on Physician Non-Competes:** Physicians noncompete clauses restrict providers ability to work at other health systems in an area, minimizing providers ability to practice medicine.



# Address Consolidation and Promote Competition

## Consolidation Oversight

| Policy                                                   | Status as of June 2025                                                                                                                                                                       | Summary                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transaction Notification Required                        |  Requires health systems or providers to notify the state of consolidation transactions                     | Arkansas requires notification for long-term care facility or hospital-based long-term care center seeking to add new beds or perform additional home health services under the Certificate of Need requirements.                                                                                                                                                                       |
| Authority to Modify or Reject Consolidation Transactions |  Has authority to approve, set conditions, or disapprove consolidation transactions                         | Under certain circumstances, Arkansas law requires nonprofit, public benefit or religious corporations to receive prior approval from circuit courts before merging with a for-profit entity. Additionally, the Arkansas Health Services Permit Agency has approval authority over applicable transactions involving long-term care facilities through the Certificate of Need process. |
| Affordability Criteria included in Transaction Review    |  Does not include consumer affordability or price growth in review criteria, approval conditions, or both |                                                                                                                                                                                                                                                                                                                                                                                         |



State Has Active Policy or Program



Policy or Program Partially Implemented



State Does Not Have an Active Policy or Program



No Source, or Limited Information Found

# Address Consolidation and Promote Competition

## Facility Fees

| Policy                                | Status as of June 2025                                                                                                                                                                                                                                                                   | Summary |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| Prohibits Facility Fees               |  State does not prohibit providers from charging any facility fees                                                                                                                                      |         |
| Facility Fee Transparency Laws        |  State does not require providers to disclose facility fees to consumers, requires off-campus outpatient departments to identify the physical location where care was provided on claims forms, or both |         |
| Limits Cost-Sharing for Facility Fees |  The state has no laws that limit the amount a patient may be billed out-of-pocket for facility fees                                                                                                  |         |



State Has Active Policy or Program



Policy or Program Partially Implemented



State Does Not Have an Active Policy or Program



No Source, or Limited Information Found

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## Anti-Competitive Contract Provisions

| Policy                                                       | Status as of June 2025                                                                                                                                 | Summary                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Restricts All-or-Nothing Contract Provisions                 |  No law restricting All-or-Nothing contract provisions                |                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Restricts Anti-Tiering and Anti-Steering Contract Provisions |  No law restricting Anti-Tiering or Anti-Steering contract provisions |                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Restricts Physician Noncompete Clauses                       |  Non-competes for physicians limited by statute                     | Arkansas generally permits noncompete agreements but exempts employees with professional medical licenses. Additionally, beginning July 15, 2025, noncompetes restricting a physician's right to practice within their scope will be void. July 15, 2025, Arkansas law voids noncompetes that restrict a physician's right to practice within their scope of practice, while still allowing noncompetes in other contexts. |
| Restricts Most-Favored Nation Contract Provisions            |  Law restricts Most Favored Nation contract provisions              | Arkansas prohibits Most Favored Nation clauses in contracts involving health care providers. The law bars provisions that guarantee an insurer will be offered lower prices, or prices at least as favorable as, all other insurers and provisions that require providers to disclose their reimbursement rates with other entities.                                                                                       |



State Has Active Policy or Program



Policy or Program Partially Implemented



State Does Not Have an Active Policy or Program



No Source, or Limited Information Found

November 2025

[healthcarevaluehub.org](https://healthcarevaluehub.org)



With support from Arnold Ventures, the Healthcare Value Hub provides free, timely information about the policies and practices that address high health care costs and poor quality, bringing better value to consumers. The Hub is part of Altarum, a nonprofit organization with the mission of creating a better, more sustainable future for all by applying research-based and field-tested solutions that transform our systems of health and health care.