Massachusetts 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.

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Consolidation Oversight

Policy	Status as of June 2025	Summary
Transaction Notification Required	Requires health systems or providers to notify the state of consolidation transactions	Massachusetts requires the Attorney General, Health Policy Commission, and Center for Health Information and Analysis be notified of material change transactions for both nonprofit or for-profit entities, as well as equity investors as of April 8, 2025. Massachusetts also requires the state's Certificate of Need program be notified of transfers of hospital ownership.
Authority to Modify or Reject Consolidation Transactions	Has authority to approve, set conditions, or disapprove consolidation transactions	The Attorney General and state Health Policy Commission do not have approval authority over transactions. However, the state's Certificate of Need program has authority to approve or disapprove transactions.
Affordability Criteria included in Transaction Review	Includes consumer affordability or price growth in review criteria, approval conditions, or both	If the Massachusetts Health Policy Commission finds that the change in total health care expenditures exceeded the health care cost growth benchmark, they may conduct a cost and market impact review (CMIR), which includes evaluating cost growth and relative price compared to other providers.

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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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 requires 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	Massachusetts law allows patients to request information about bills at the time of scheduling a service to include any facility fees.
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	Law restricts All-or-Nothing contract provisions	Massachusetts bars the execution of most contracts that include an All-or-Nothing clauses, prohibiting provisions that require an insurer to include all members of a provider group in a select network plans.
Restricts Anti-Tiering and Anti-Steering Contract Provisions	Law restricts Anti-Tiering or Anti-Steering contract provisions	Massachusetts bars the execution of contracts that include Anti-Steering or Anti-Tiering clauses, prohibiting agreements or contracts that limit the ability of the insurer to introduce or modify a select network plan or tiered network plan by granting the health care provider a guaranteed right of participation.
Restricts Physician Noncompete Clauses	Non-competes generally unenforceable or prohibited	Massachusetts also has stringent restrictions on noncompete agreements, explicitly banning them in physician employment contracts.
Restricts Most-Favored Nation Contract Provisions	Law restricts Most Favored Nation contract provisions	Massachusetts bans contract provisions that allow an insurer to establish reimbursement rates based on the price paid to a provider in a contract with another insurer. In practice this prohibits Most Favored Nation clauses, which guarantee one insurer the best rate.

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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