Washington 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	The Attorney General (AG) must be notified of any material changes involving hospitals, hospital systems, and provider organizations. Notably, Washington was the first state to enact the Uniform Antitrust Premerger Notification Act, which took effect in 2025 under Senate Bill 5122. Likewise, the Department of Health (DOH) must be informed of any acquisitions involving nonprofit hospitals, and the Certificate of Need (CON) program must be notified of any sales, purchases, or leases of hospitals.
Authority to Modify or Reject Consolidation Transactions	Has authority to approve, set conditions, or disapprove consolidation transactions	Both the Department of Health and the CON program have the authority to approve, set conditions on, or disapprove transactions under their purview. Although the Attorney General provides formal opinions to the DOH, the AG does not have direct approval authority over these transactions.
Affordability Criteria included in Transaction Review	Includes consumer affordability or price growth in review criteria, approval conditions, or both	The DOH evaluates proposals based on factors such as access to affordable care, whereas the CON program considers the potential impact of a transaction on the cost of and charges for health services.

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 prohibits provider from charging a facility fee for specified procedures, care settings, or both	Washington prohibits facility fees for distant sites, hospitals that are the originating site for audio-only telemedicine services, and any other site not outlined in legislation.
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	Hospital-owned off-campus clinics and provider offices must notify consumers regarding facility fees in multiple formats and circumstances, including before care and in signage at the facility.
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	During the 2025 legislative session Washington lawmakers introduced bills to ban all-or-nothing clauses, but none were passed.
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	Washington law voids noncompete agreements for employees earning less than $123,394.17 and independent contractors earning less than $308,485 (2025 thresholds, adjusted annually for inflation). Noncompetes must be disclosed in writing by the time an offer is accepted or supported by independent consideration if signed after employment begins, and those exceeding 18 months are presumed unreasonable unless proven necessary. Additionally, laid-off employees cannot be bound by a noncompete unless paid their base salary during the restricted period, offset by any subsequent earnings.
Restricts Most-Favored Nation Contract Provisions	⊗ No law restricting Most Favored Nation contract provisions	Washington has banned Most Favored Nation clauses in contracts with certified health plans, but since it's unclear if such plans still exist or if the law applies to other plans, the state is not considered to currently restrict these clauses.

● 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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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.