

COMPETE ACT

A.B. 1776 Assemblymember Cecilia Aguiar-Curry



SUMMARY

The COMPETE Act modernizes the Cartwright Act, California’s century-old antitrust law, for today’s economy by codifying the recommendations of the California Law Revision Commission (CLRC), an independent state agency tasked with reviewing and recommending reforms to California law.

This bill would update the Cartwright Act by enhancing the ability of workers, patients, and other consumers to prevent harmful, anticompetitive practices by large corporations that dominate labor, health care, or other markets. Specifically, the COMPETE Act would adopt the CLRC’s recommendation to include a standard to enforce the Cartwright Act’s prohibitions on anticompetitive behavior against a single corporation that has dominant market power—also known as a “single firm conduct” standard.

BACKGROUND

In 2022, the legislature passed a resolution assigning the CLRC to examine current antitrust law and determine whether updates were needed. One of the initial recommendations of the CLRC is to ensure that the Cartwright Act is updated to include a single firm conduct standard. While the CLRC’s recommendations would apply across all industries, a single firm conduct standard is of particular importance in health care and labor markets.

At the same time, the rise in conglomeration across the health care sector through vertical integration of health care services and employer labor market dominance has harmed both patients and health care workers. Studies show that consolidation of health care provider groups has driven up health care costs and worse patient outcomes.¹

With intensified consolidation of hospital systems, health care employers have gained monopsony power over labor markets, which lessens competition for workers. Employer monopsony power in health care labor markets can lead to both reduction in employment rates within a labor market and it can enable employers to engage in practices that result in understaffing or unsafe staffing.²

When health care employers dominate a labor market, they can leverage their economic power against nurses and other health care workers to not only lower wages but also to lower the job quality, to reduce staffing, to dilute union density, and to chill worker advocacy for better working conditions.

PROBLEM

While California antitrust law has some checks on the sale of nonprofit health care facilities, large health care corporations today can engage in anticompetitive behavior that harms workers and patients and goes unchecked by state antitrust law. Unchecked corporate growth and consolidation since the passage of the Cartwright Act have created conditions where dominate employers with monopsony power over a labor market can exploit workers in unsafe and unfair conditions, suppress wages, or engage in union busting with impunity.

Large hospital systems that dominate the health care market in a region can, without legal recourse under exiting antitrust law, increase health care prices, cut services for patients, or force public health care providers to take high cost Medi-Cal or Medicare patients.

A.B. 1776 continued »»

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Too frequently health care corporations that have consolidated market power reduce or eliminate vital community health care services—such as maternal care, surgical care, and mental health care—or in some cases close facilities all together and then shift patients into other facilities where the hospital system can charge higher prices.³ By creating unfair and anticompetitive conditions where patients' options for care are limited, large hospital corporations can increase prices, suppress health care worker wages, and manipulate access to care for patients to secure higher profits rather than ensuring communities have access to care and good union jobs.

SOLUTION

The pursuit of profit has created rapidly evolving markets and the conditions for mergers and acquisition of health care services that drive up costs, suppress wages, and create conditions sustainable worker conditions.

The COMPETE Act, A.B. 1776 (Aguiar-Curry) updates California's antitrust law, the Cartwright Act, as recommended by the California Law Revision Commission, to assure equitable market conditions that create competitive markets, ensure worker protections, and affordable health care services.

The bill would codify the California Law Revision Commission's recommendation for California to adopt what is called a "single firm conduct" standard in state antitrust law. Specifically, the bill puts into statute language that closes a loophole that has permitted single corporations that dominate a market to engage in unlawful anticompetitive conduct.

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ENDNOTES

- 1 • O'Neill, "Study finds vertical integration in medicine is leading to higher costs and worse health outcomes," Harvard Kennedy School, (2023), www.hks.harvard.edu/faculty-research/policy-topics/health/study-finds-vertical-integration-medicine-leading-higher
- 2 • Marinescu et al, "Wages, Hires, and Labor Market Concentration," J Econ Behav & Org. (2021), 184(C), 506-605; Wasser D, "Literature Review: Monopsony, Employer Consolidation, and Health Care Labor Markets," Cent for Econ and Pol'y Res (2022).
- 3 • Henke RM et al. Oct 2021. "Access To Obstetric, Behavioral Health, And Surgical Inpatient Services After Hospital Mergers in Rural Areas." Health Affairs 40(10), www.healthaffairs.org/doi/10.1377/hlthaff.2021.00160

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