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July 9, 2018

Dr. Stuart Altman  
Chairman  
Massachusetts Health Policy Commission  
50 Milk Street, Eighth Floor  
Boston, MA 02109

David Seltz  
Executive Director  
Massachusetts Health Policy Commission  
50 Milk Street, Eighth Floor  
Boston, MA 02109

Dear Dr. Altman and Executive Director Seltz:

As you know, the Health Policy Commission and the Attorney General's Office share a common mandate to monitor health care market trends and promote access to affordable, quality care. I applaud the HPC's ongoing work to promote a more transparent, accountable, and innovative health care system, including through its cost and market impact reviews.

The AGO is similarly committed to ensuring access to quality health care for everyone in Massachusetts. Our recent health care cost trends reports have highlighted the differences in distribution of health care spending across communities with different income levels<sup>[1]</sup> and explored the wide disparity in resources available to certain hospitals and other providers,<sup>[2]</sup> while our litigation teams have prioritized enforcing state and federal laws that ensure high quality health insurance and access to mental health services and substance use treatment.

For this reason, we believe that now is an appropriate moment to share some of our current thoughts on how, irrespective of potential positive effects on the health care system, the merger of Beth Israel Deaconess Medical Center, Lahey Health System and others, as currently proposed, might increase costs and impact access to health care in Massachusetts.

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<sup>[1]</sup> Examination of Health Care Cost Trends and Cost Drivers, Pursuant to G.L. c. 12C, s. 17 (Oct. 13, 2016), at <https://www.mass.gov/files/documents/2016/10/ts/cc-market-101316.pdf>.

<sup>[2]</sup> Examination of Health Care Cost Trends and Cost Drivers, Pursuant to G.L. c. 12C, s. 17 (Sept. 18, 2015), at <https://www.mass.gov/files/documents/2016/09/va/cctcd5.pdf> ("2015 Cost Trends Report").



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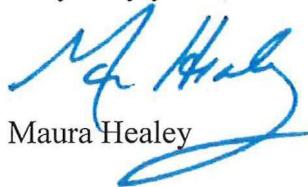
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In particular, we note that many hospitals that would remain independent after this proposed transaction receive relatively lower reimbursement rates from commercial insurance carriers and have large percentages of patients with public insurance through Medicare or MassHealth. If the proposed transaction goes forward, these institutions risk seeing their commercially-insured patients drawn into the new system, whose providers already see a lower percentage of MassHealth patients than other hospitals.<sup>[3]</sup> Because the BI-Lahey providers are higher priced than these other hospitals, such a shift in patient population would increase aggregate health care expenditures. And because public payers traditionally pay less than commercial insurance, such a shift would disproportionately reduce revenue to affected hospitals, potentially undermining the financial stability of some of them. There could be cascading effects on patients, workers and communities, as the independent community hospitals might have to consider cuts to services, jobs and spending to remain viable. People who continue to rely on those hospitals – especially those in lower-income communities – could face obstacles to accessing care.

Concerns about higher prices are also not without foundation. Nationally, health care system prices tend to increase after mergers.<sup>[4]</sup> Any price increases by BI-Lahey providers would likely exacerbate the increase in health care spending that would result from the possible patient shift outlined above.

An important aspect of how we evaluate these potential impacts is how the parties to the BI-Lahey transaction intend to operate the system going forward. We will be following up with the parties with the hope of gaining insight into that question. We understand that the HPC shares our concerns and we are encouraged that our agencies will be able to work together to address common concerns with the proposed system merger and its possible impacts on access to health care. As our evaluation of the proposed merger continues, we look forward to continuing to work closely with you and your staff to understand the likely impacts of this proposed transaction, and more generally to promote access to affordable, quality care in Massachusetts.

Very truly yours,



Maura Healey

CC: Dr. Kevin Tabb, M.D., President and Chief Executive Officer, Beth Israel Deaconess Medical Center  
Dr. Howard R. Grant, M.D., President and Chief Executive Officers, Lahey Clinic

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<sup>[3]</sup> See Center for Health Information & Analysis, Massachusetts Hospital Profiles (Jan. 2018), at <http://www.chiamass.gov/assets/docs/r/hospital-profiles/2016/Massachusetts-Hospitals-Profiles-Compendium-2016.pdf> (reflecting public payer mix at Massachusetts acute care hospitals). Elsewhere, we have documented the migration of commercial volume away from hospitals with lower prices towards hospitals with higher prices. See 2015 Cost Trends Report at 23.

<sup>[4]</sup> See Testimony of Martin Gaynor, Examining the Impact of Health Care Consolidation, Committee on Energy and Commerce, Oversight and Investigations Subcommittee U.S. House of Representatives, at 7-8 (Feb. 14, 2018), at <https://docs.house.gov/meetings/IF/IF02/20180214/106855/HHRG-115-IF02-Wstate-GaynorM-20180214.pdf> (summarizing studies of impact on prices from hospital consolidation).