Yale University

Thurman Arnold Project

2026 Student Papers

Paper No. 5.01

EZ-Merge
An AI powered website detect anti-competitive mergers below the Hart-Scott Rodino threshold.

May 2026

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Project Motivation for EZ Merge

The federal Hart-Scott-Rodino (HSR) Act requires companies of sufficient size to notify the Federal Trade Commission (FTC) and the Department of Justice of their intent to merge.[1] The HSR provides the Government with the information it needs to investigate consequential anti-competitive mergers. In order to account for inflation market dynamics, the reporting threshold is pegged to the yearly gross national product of the United States. On February 17th, 2026, the reporting requirement increased from $126.4 to $133.9 million.[2]

This threshold, however, is calibrated to address national-level deal values and struggles to capture the competitive dynamics of local markets. A smaller merger that eliminates the only competing dialysis clinic in a county can be devastating for a community, but in most cases will not be flagged by the FTC or regulated. This problem is exacerbated as companies pursue serial acquisitions -- acquiring many small competitors one at a time -- with each transaction falling below the HSR threshold. A serial acquiror can cumulatively achieve a dominant position in the market and reduce the competition that would otherwise control the price and quality of the service. This gap poses serious challenges for federal antitrust enforcement.

In recent years, state-level merger review has emerged as an effective method to combat anticompetitive mergers. Several states, notably Colorado and Washington state, have enacted their own reporting requirements dubbed "mini-HSR acts." They impose lower reporting thresholds, allowing the state to control[3] However, mini-HSR acts present a host of challenges. Small value reporting requirements can prove onerous for small businesses who may have no in-house legal team, and where legal and time expenses add up. From the government's perspective, if all small businesses must file merger reports, there is a risk of overwhelming a state antitrust agency with paperwork. Even if these hurdles are overcome by businesses and the government, there is currently no system that works at scale to distinguish harmless transactions from potentially dangerous rollups.

To solve this problem, we propose a solution we call "EZ-Merge." It is a free AI-powered digital platform for state antitrust agencies that leverages algorithms and academic research to make submissions simple and easy for the businesses involved, and administratively manageable for the state. It allows a state mini-HSR review system to be more effective in its use of resources and uniform in its methodology.

Mini-HSR acts are gaining momentum throughout the United States. In 2025, Colorado and Washington state passed legislation to enact mini-HSR laws, becoming the first two states in

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[1] "Hart-Scott-Rodino Antiturst Improvements Act of 1976." Federal Trade Commission, https://www.ftc.gov/legal-library/browse/statutes/hart-scott-rodino-antitrust-improvements-act-1976.

[2] "New HSR thresholds and filing fees for 2026." Federal Trade Commission, 20 Jan. 2026, www.ftc.gov/enforcement/competition-matters/2026/01/new-hsr-thresholds-filing-fees-2026.

[3] Kantor, Ryan et al. "'Mini-HSR' Acts Take Effect in Washington and Colorado, with Similar Legislation Pending in Other States." Morgan Lewis, 6 Aug. 2025, www.morganlewis.com/pubs/2025/08/mini-hsr-acts-take-effect-in-washington-and-colorado-with-similar-legislation-pending-in-other-states.

the country to do so. Several other states have comparable legislation pending, including California, Hawaii, Indiana, Nevada, Pennsylvania, Utah, and West Virginia. These states have modelled their legislation off the Uniform Antitrust Pre-Merger Notification Act (UAPNA), a legislation template authored by the Uniform Law Commission. In addition to providing state attorneys general more agency in enforcing antitrust matters, the UAPNA mandates that firms and individuals that are based in the state and that file with the federal government must also file with the state. Likewise, firms and individuals that are NOT based in the state but have transactions in the state, counting towards 20 percent or more of the federal HSR Act, must file merger reports with the state's attorney general. This means that outside-state firms and individuals were required to provide pre-merger notifications for deals of $25.28 million when the Colorado and Washington legislation was passed.[4] This enables states to have a sense of what anticompetitive mergers might take place within the state or affect the state's economy.

As states consider adopting mini-HSR acts modeled on federal pre-merger notifications under the actual Hart-Scott-Rodino Antitrust Improvements Act, they should think about which markets require special scrutiny. The academic and policy literature makes clear that healthcare markets are uniquely vulnerable to having adverse effects on local populations when they consolidate. Since markets in these sectors are inherently local, small mergers can nonetheless generate lots of market power. For this reason, healthcare transactions require lower reporting thresholds, as recognized in Pennsylvania's April 2024 House Bill.

Specifically, dialysis clinics, physician groups, and insurers often operate in geographically concentrated areas where even small mergers can dramatically reduce competition, raise prices, and limit patient choices. Mini-HSR thresholds should capture a wide variety of mergers, but give particular attention to healthcare mergers. Unlike broader Uniform Antitrust Pre-merger Notification Act (UAPNA) proposals, Pennsylvania's $10 million threshold for healthcare-specific transactions means that states can intervene in significantly smaller mergers. Revised mini-HSR acts with a healthcare clause is one method to control increased market power that is often local and very impactful for state citizens.

However, there are other sectors where we know that local mergers have had harmful effects. If a state had a tool that allowed it to analyze small mergers at scale, it could beneficially expand the scope of mandatory merger reporting. New state laws could require that these sectors file pre-merger notification of their transactions as well. Sectors where we are concerned about negative impact on consumers include: Dialysis Clinics, Grocery Stores, Pharmacies, Nursing Homes, Daycares, Funeral Homes, and Physicians. This paper describes competition issues in these key sectors. The risk of harm to competition is the basis for more state oversight.

A. Dialysis Clinics

[4] Kantor, Ryan, et al. "'Mini-HSR' Acts Take Effect in Washington and Colorado, with Similar Legislation Pending in Other States." Morgan Lewis, 6 Aug. 2025, www.morganlewis.com/pubs/2025/08/mini-hsr-acts-take-effect-in-washington-and-colorado-with-similar-legislation-pending-in-other-states.

Between 2005 and 2019, DaVita and Fresenius, two dominant national dialysis clinics, grew their combined market share of U.S. dialysis centers from 59.1% to 77.1% [5]. No individual clinic acquisition triggered a federal review, as each acquisition was far below the federal threshold. However, the cumulative result was a duopoly that now controls the competitive dialysis market. During the same period, physician ownership of these dialysis clinics increased from 11.4% to 29.1%, which raises concerns about how self-referral incentives insulate these markets from competition.

As a result, approximately ⅓ of the U.S. population now lives in areas served exclusively by one of these two firms, with no alternative provider to turn to. Commercial prices in local markets without either of the two large chains were $495.08 lower per treatment.[6] In addition to decreasing cost competitiveness for patients, monopsonistic firms have the ability to pay specialized workers less, harming workers in communities that may already face economic stress. [7] Outside of increased prices and poorer working conditions, research has shown that these acquired firms have lower quality and are linked to higher mortality rates. Researchers find that acquisition by a large chain is associated with declining quality regardless of local market conditions.[8] But competition is also critical. In particular, a study by Thomas Wollmann found that stealth acquisitions – those that significantly increase market concentration – lead to a 3.5% increase in hospitalization rates compared to reportable acquisitions that did not meaningfully increase market concentration.[9] These increased hospitalizations and deaths are the consumer harm from the anticompetitive mergers.

Because patients must visit a clinic several times a week for several hours each visit, they often choose the clinic that is closest to their home, and rarely travel more than 25 miles to receive care.[10] Patients were found to be fairly indifferent between 2.96 additional miles of travel, one percentage point quality increase, and access to 3.9 more machines, meaning that geography is consistently prioritized over quality in their decision-making.[11] This means the relevant market is not national or even regional; it is the set of clinics within a short commute of each patient. When acquisitions eliminate the only independent option in that radius, patients lose out on quality and accessible care.

While these small mergers have been overlooked, the FTC is aware of the anticompetitive potential of dialysis mergers. In 2021, the FTC imposed a 10-year prior approval requirement on DaVita, requiring FTC approval before acquiring any dialysis clinic in Utah following DaVita's

[5] Xia X, Deng W, Eliason PJ, et al. Financial Ties, Market Structure, Commercial Prices, and Medical Director Compensation in Dialysis. *JAMA Health Forum.* 2025;6(6):e252659. doi:10.1001/jamahealthforum.2025.2659
[6] Xia et al., "Financial Ties," e252659.
[7] Xia et al., "Financial Ties," e252659.
[8] Paul Eliason et al., How Acquisitions Affect Firm Behavior and Performance: Evidence from the Dialysis Industry, 135 Q. J. ECON. 221, 240-41 (2020).
[9] Thomas Wollmann, How to Get Away with Merger: Stealth Consolidation and Its Effects on US Healthcare, NATIONAL BUREAU OF ECONOMIC REVIEW (working paper, last revised Mar. 2024),
[10] Thomas Wollmann, How to Get Away with Merger: Stealth Consolidation and Its Effects on US Healthcare, NATIONAL BUREAU OF ECONOMIC REVIEW (working paper, last revised Mar. 2024), https://www.nber.org/papers/w27274.
[11] Wollmann at 47.

proposed acquisition of dialysis clinics in Provo. The FTC had found DaVita had a documented history of market consolidation, and the new entry in the Provo market was not sufficient to remedy the competitive harm.[12] Additionally, in 2007, the FTC brought a consent order against the American Renal Associates (ARA) and Fresenius for an unlawful agreement to pay Fresenius to close clinics near competing ARA locations in Rhode Island and Massachusetts. The Commission bars parties from entering into any agreement to close dialysis clinics, and requires the ARA to notify the Commission if it intends to acquire any dialysis centers in the Warwick/Cranston area for 10 years.[13] In addition, while no states have enacted laws specific to dialysis clinic acquisitions, 14 states have healthcare-specific pre-merger notification requirements that account for dialysis transactions, indicating a need for a system to adeptly flag harmful acquisitions.

B. Pharmacies

Three pharmacy benefit managers (PBMs), mediators who manage drug formularies and reimbursement for insurers, control around 85% of the U.S. pharmaceutical market.[14] Between 2000 and 2018, roughly 18,000 U.S. pharmacies were closed, many of which were driven out of business through anticompetitive conduct rather than consumer preference: large PBMs offered low reimbursement rates, retroactive clawbacks of payments, and predatory audits rendering independent pharmacies unprofitable.[15] Now dominant chains, Walgreens, Rite Aid, and CVS, are vertically integrated with the dominant PBMs, creating a structural conflict of interest. The same organizations that set reimbursement rates for all pharmacies will selectively reimburse their own affiliated pharmacies. This vertical integration between chains, PBMs, and drug manufacturers has created a market that is highly resistant to competitive entry. [16]

As a result, pharmacy deserts have begun to increase. Often in low-income and rural neighborhoods, these deserts disproportionately limit medication access and increase healthcare costs, exacerbating existing health disparities.[17]. Pharmacy deserts are the direct consequence of "insufficient oversight of anticompetitive conduct by PBMs".[18]

This harm is inherently local. Lack of access to pharmacies puts pharmacy desert communities and their nearby 16 million residents at risk.[19] People living in pharmacy desert communities may be left behind in accessing emergency services, seen most prominently in the COVID-19

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[12] Federal Trade Commission, "FTC Imposes Strict Limits on DaVita, Inc.'s Future Mergers Following Proposed Acquisition of Utah Dialysis Clinics," October 25, 2021, https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-imposes-strict-limits-davita-incs-future-mergers-following-proposed-acquisition-utah-dialysis.

[13] Federal Trade Commission, "American Renal Associates, Inc., a Corporation, and Fresenius Medical Care Holdings, Inc., a Corporation," last updated October 23, 2007, https://www.ftc.gov/legal-library/browse/cases-proceedings/0510234-american-renal-associates-inc-corporation-fresenius-medical-care-holdings-inc-corporation.

[14] Christopher R. Leslie, "Pharmacy Deserts and Antitrust Law," *Boston University Law Review* 104 (2024): 1593–1655, https://www.bu.edu/bulawreview/files/2024/12/LESLIE.pdf

[15] Leslie, "Pharmacy Deserts and Antitrust Law," 1601 - 1637

[16] Leslie, "Pharmacy Deserts and Antitrust Law," 1620–35.

[17] Catalano, "Distribution of Pharmacy Deserts and its Association with Digital Divide and Residential Redlining across the United States, National Library of Medicine, https://pmc.ncbi.nlm.nih.gov/articles/PMC12338793/

[18] Leslie, "Pharmacy Deserts and Antitrust Law," 1646 - 1649

[19] Rachel Wittenauer et al., "Locations and Characteristics of Pharmacy Deserts in the United States: A Geospatial Study," *Health Affairs Scholar* 2, no. 4 (April 2024). https://doi.org/10.1093/haschl/qxae035.

pandemic.[20] Detroit has experienced this effect and has linked it to PBMs' reduction of the competitive pharmacy landscape. In 2024, approximately half of Detroit's neighborhoods were classified as pharmacy deserts, and Northern Michigan residents had to drive over 45 minutes to fill a prescription.[21] As a result, the Michigan Attorney General's Office filed a groundbreaking antitrust lawsuit against Express Scripts, Inc., Evernorth Health, Inc., and Prime Therapeutics LLC for fixing pharmacy reimbursement rates to eliminate competition in the pharmacy markets and drive independent pharmacies out of business. [22] While the outcome is still pending, this sets an important precedent for the state Attorney General to strategically intervene on behalf of residents and small businesses, which can be made easier through a system like EZ-Merge.

C. Nursing Homes

Private equity investment in healthcare siphons value from publicly funded healthcare programs while evading federal oversight. More than 3,200 of the roughly 15,000 skilled nursing facilities in the United States experienced a change in ownership between 2016 and 2021. Medicare and Medicaid impede firms from raising prices outright. In recent years, private equity firms have shifted costs to other entities and reduced the quality of care delivered to residents.[23]

The primary mechanism is through a sale-leaseback arrangement: a facility sells its property to a real estate investment trust (REIT) affiliate for up-front capital, then pays rent to that same related party. This transition increases facilities' real estate costs by an average of $1,744 per bed, a 42.4% increase, while an average of $54,396 per bed in asset value is tunneled off the nursing home's balance sheet through underpriced real estate sales. Related-party management fees add another $1,124 per bed on average. In total, around 68 percent of nursing home industry profits are concealed through markups on these related-party activities. These behaviors fall outside traditional antitrust reporting requirements, allowing the effective economics of consolidation to happen without any regulation.[24] State laws could close this loophole.

The U.S. spends $196.8 billion on nursing homes which are heavily funded by Medicare and Medicaid. These public subsidies can be captured through related-party transactions that go unnoticed in standard merger review.[25] While this may not lead to monetary increases in prices for

[20] Wittenauer et al., "Locations and Characteristics of Pharmacy Deserts."

[21] Carrie G. Amezcua and Dae Lee, "A Blueprint for Action: Michigan's Lawsuit Against Express Scripts and Prime Therapeutics Signals a Turning Point for Independent Pharmacies, Plan Sponsor, Patients, and State Enforcement," Buchanan Ingersoll & Rooney PC, May 2, 2025, https://www.bipc.com/a-blueprint-for-action-michigans-lawsuit-against-express-scripts-and-prime-therapeutics-signals-a-turning-point-for-independent-pharmacies-plan-sponsor-patients-and-state-enforcement

[22] People of the State of Michigan v. Express Scripts, Inc., Evernorth Health, Inc., and Prime Therapeutics LLC, complaint, No. 2:25-cv-11215-JJCG-KGA, ECF No. 1, filed April 28, 2025, U.S. District Court for the Eastern District of Michigan, https://www.naag.org/wp-content/uploads/2025/05/Express-Scripts-Complaint.pdf

[23] Y. Singh, "The Antitrust Antidote to Hospital and Nursing Home Corporatization—Promises and Pitfalls," *New England Journal of Medicine* 393 (2025): 1761–1764.

[24] Adler et al., "Consolidation in Health Care."

[25] Adler et al., "Consolidation in Health Care." The sale-leaseback, per-bed cost, and hidden-profit figures are reported therein, drawing on related-party spending analyses of CMS cost-report data.

nursing home consumers, cutting costs to make these organizations more profitable has often entailed lower staffing levels and poor quality of care for nursing home residents, ultimately hurting the consumers.[26] According to Lina Khan, the consequences for nursing facilities have been adverse, resulting in significantly higher mortality rates. Research examining Medicaid patients in 1,674 PE-acquired nursing homes over 2 decades found that PE ownership increased short-term mortality by 11% (effect detectable within 15 days of discharge and stable for 365 days). Registered Nursing Assistant hours were also decreased by 3% for every patient day, and negative health effects like pain, mobility issues, and ulcers were also significant.[27]

D. Childcare

The childcare market is in the early stages of consolidation that mirrors the trend in the Dialysis sector and Nursing Homes. Markets are highly local as parents must deliver children to the facility every working day.

Eight of the ten largest childcare companies in the United States are currently owned by private equity investors, serving between 10 - 12% of children receiving licensed care across the country.[28] The same structural conditions that made dialysis and nursing homes susceptible to roll-up strategies apply to child care: extreme market fragmentation (82 percent of child care enterprises had fewer than 20 employees in 2021, including 39 percent with fewer than five), inelastic consumer demand, and a regulatory ceiling on the number of children per caregiver that limits revenue growth and makes debt-financed acquisition strategies exploitable.[29] Childcare already requires an annual household income of at least $165,000 to consider the $11,582 average national price affordable at 7 percent of income without subsidies.[30] Of the ten largest child care companies in the U.S., eight are already owned by PE investors, which serve around 10-12 percent of children receiving licensed care in the U.S. KinderCare, Learning Care Group, and Bright Horizons control around 5 percent of this market, while the other five large companies are franchisors whose programs are legally classified as independent small businesses despite their financial ties to their larger franchise company.[31]

The effects of these roll-up and consolidation strategies have already been documented to harm independent childcare providers, workers, and consumers in a multitude of ways. Mergers have been shown to cause higher prices. A company like Bright Horizons, which is publicly traded and specializes in providing employer-subsidized care, sometimes raises fees by as much as 7 percent a year.[32] Simultaneously, cost-cutting falls on employees, leading to a decrease in the quality of care. Lower wages and unpredictable hours lead to high employee turnover, where "nursing home

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[26] Y. Singh, "The Antitrust Antidote to Hospital and Nursing Home Corporatization—Promises and Pitfalls,"

[27] Atul Gupta, Sabrina T. Howell, Constantine Yannelis, and Abhinav Gupta, "Owner Incentives and Performance in Healthcare: Private Equity Investment in Nursing Homes," NBER Working Paper No. 28474, National Bureau of Economic Research, February 2021, https://www.nber.org/system/files/working_papers/w28474/w28474.pdf

[28] Stienon, "New Playbook Provides Solutions to Stop Private Equity Takeover of the Child Care Industry", https://www.openmarketsinstitute.org/publications/press-release-children-before-profits-state-playbook

[29] Stienon, "New Playbook Provides Solutions to Stop Private Equity Takeover of the Child Care Industry"

[30] Child Care Aware of America, *Demanding Change: Repairing Our Child Care System* (Arlington, VA: Child Care Aware of America, 2023), https://www.childcareaware.org/demanding-change.

[31] Stienon, 7.

[32] Dana Goldstein, "Can Child Care Be a Big Business? Private Equity Thinks So," *New York Times*, December 16, 2022, https://www.nytimes.com/2022/12/16/us/child-care-centers-private-equity.html

providers, where staffing rates fell by 1.2 percent on average after private equity buyouts, and the remaining nurses were required to work more overtime hours" (Gupta et al. 2021). 47 percent of for-profit centers run through a franchise or chain experienced "high" turnover rates of over 20 percent—a greater share than any other ownership type (Amadon, Lin, and Padilla 2023)[33] By employing workers in lower-paid roles like assistant teachers, rather than lead teachers, or teachers without advanced credentials, these daycares push workers into poor conditions.[34]

Outside of cutting costs through staffing, private equity-backed providers have relied on cheaper facilities, cheaper equipment, and even cheaper food options (Appelbaum and Batt 2020).[35] Even more, since PE groups tend to facilitate integration across their portfolio companies, this requires their companies to buy from other companies in the portfolio exclusively. As a result, independent childcare providers and suppliers must now compete with private-equity companies that have sources of guaranteed demand or underpriced supply.[36] Not only does this reduce competition and harm businesses and workers, but the effects of poorer quality now fall heavily on children who depend the most on stable care relationships and specialized care.

Children of diverse socioeconomic backgrounds are often most vulnerable to the anti-competitive effects of PE consolidation. Small and medium-sized providers often are members of the same community as the families they serve. This means that they can provide care according to the cultural, religious, and accessibility needs of each child.[37] However, it is observed that PE day cares tend to reduce caregivers' freedom to modulate their activities as employees at these organizations report pressures to standardize treatment plans that they offer to autistic children, which creates a large concern for children with disabilities or chronic conditions.[38] While the quality of care has been shown to decline for many children, particularly children who require specialized care, these consolidations have also led childcare services to be increasingly inaccessible in terms of cost. For example, the percentage of Bright Horizons students who qualify for government assistance is a single digit, while at Lightbridge Academy, almost ⅓ of the 66 sites accept subsidized students, and those students make up 20% or less of the center's total population.[39]

Overall, while PE acquisition of daycares is still a modern trend, the impacts on independent businesses, workers, and consumers are very notable. Since these acquisitions are still fairly recent, there is little enforcement and precedents against these roll-up strategies. However, this gap of legal infrastructure surrounding acquisitions is what the EZ-Merge review is designed to close.

E. Funeral Homes

In recent years deathcare M&A has risen sharply.[40] The funeral industry specifically is undergoing consolidation, driven by two major forces. First, consumer preferences are shifting towards cremation and toward online planning resources. As a result, larger corporate chains are better positioned to capitalize on both trends as they have the resources to service cremations efficiently and digital infrastructure to maintain competitive online storefronts. Second, an aging

[33] Stienon, 46.
[34] Stienon, 45.
[35] Stienon, 46.
[36] Stienon, 47.
[37] Stienon, 18.
[38] Stienon, 47.
[39] Goldstein, "Can Child Care Be a Big Business?"
[40] Ion Analytics / Mergermarket, "*Deathcare M&A*," https://ionanalytics.com/insights/mergermarket/deathcare/.

generation of independent funeral home owners is selling at increasing rates to corporate chains.[41] As a result, the funeral industry is increasingly dominated by large national chains acquiring independent groups; each of these transactions falls below federal HSR thresholds.

Families rarely look very far when finding a place for funeral services, making the relevant competitive geography for antitrust purposes a single city or county.[42] This geographic radius means that when a chain acquires the only independent funeral home in a community, it reduces meaningful consumer choice entirely. The FTC currently has a Funeral Rule, requiring all funeral providers to offer itemized price lists for all goods and services, which is supposed to prevent deceptive bundling.[43] But this rule only addresses disclosure and is rendered ineffective when the corporate chain consolidates all the funeral homes in a county. As a single chain controls all options within a family's travel radius, the prices are controlled solely by the corporations. Additionally, when independent competitors are eliminated, the remaining providers have reduced pressure to provide quality service.

Federal enforcement has shown that funeral home consolidation causes significant competitive harm at the local level. When Service Corporation International (SCI), which was operating more than 1,449 funeral homes, 374 cemeteries, and 100 crematories, proposed to acquire Stewart Enterprises, the second-largest deathcare provider with 217 funeral homes and 141 cemeteries, the FTC determined that the acquisition would substantially lessen competition in 59 communities throughout the United States. An earlier SCI acquisition of Equity Corporation International required divestiture in 14 separate markets.[44] An earlier enforcement action against the Loewen Group in 1996 required divestiture of funeral homes in Brownsville, San Benito, and Harlingen, Texas, and Castlewood, Virginia, after the FTC found that Loewen's acquisitions eliminated competition between identifiable local providers and increased the likelihood of collusion in those communities.[45]

Market concentration also enables deceptive practices towards consumers. In United States v. Funeral & Cremation Group of North America and Legacy Cremation Services, funeral operators created websites for fictitious funeral homes to deceive consumers about provider identity and pricing, misrepresented prices, and withheld remains when consumers refused to pay inflated charges.[46] These predatory practices can continue to appear when local competition has been eliminated, and families have no alternatives to support them.

F. Grocery Stores

The grocery sector differs from other sectors discussed herein as the store's market is defined both by its product market and its geographic market.[47]

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[41] The Foresight Companies, *2025 Funeral & Cemetery Consumer Behavior Study Insights Report* (June 2025), https://www.theforesightcompanies.com/wp-content/uploads/2025/06/2025-FCCBS-Insights-Report.pdf.

[42] Denise Hearn, Krista Brown, Taylor Sekhon, and Erik Peinert, *The Roll-Up Economy: The Business of Consolidating Industries with Serial Acquisitions*, American Economic Liberties Project, December 2022, https://www.economicliberties.us/wp-content/uploads/2022/12/Serial-Acquisitions-Working-Paper-R4-2.pdf.

[43] Federal Trade Commission, *Funeral Rule*, https://www.ftc.gov/news-events/topics/truth-advertising/funeral-rule. [5]

[44] Federal Trade Commission, Analysis of Proposed Consent Order, *In re Service Corporation International and Stewart Enterprises, Inc.*, File No. 131-0195 (May 28, 2013).

[45] Federal Trade Commission, Analysis of Agreement Containing Consent Order, *In re Loewen Group, Inc.*, File No. 961-0042 (1996).

[46] United States v. Funeral & Cremation Group of North America, LLC and Legacy Cremation Services, LLC, No. 1:23-cv-02228 (D.D.C. 2023).

[47] *FTC v. Qualcomm Inc.*, 969 F.3d 974, 992 (9th Cir. 2020).

On the product side, it is not evident whether warehouse clubs, mass merchandisers, and online retailers compete in the same market as traditional supermarkets, which causes each case to be analyzed one at a time. Within the geographic market, grocery store mergers can cause food price increases for consumers as well as decreases in workplace quality.

The entry and exit of firms into the supermarket industry is "relatively easy" (firms only need grocery suppliers, a physical space, and permission to enter the market), and the grocery industry has been historically competitive. For instance, the U.S. industry averaged just a 1.37% post-tax profit between 2002 and 2012. However, the FTC still investigated 153 grocery store mergers between 1998 and 2007, challenging 134 of them.[48] However, lack of scale and effective distribution is known to be a barrier to success.

Concerning horizontal mergers in the grocery industry, previous research has found that mergers in concentrated markets lead to price increases. One study found that in four of five grocery store mergers associated with a two-plus-percent price increase occurred in "highly concentrated markets."[49] Conversely, mergers in unconcentrated markets are not consequential to prices; in fact, associated with a decrease in prices when such mergers increase efficiency.[50] In a similar vein, retail chains with low product variety may decrease their variety of products following a merger, whereas high-variety stores may increase their variety of products.[51] Such findings illustrate how some mergers can improve grocery stores for consumers, whereas other mergers may impose higher costs or poorer selection for consumers.

While a majority of antitrust literature related to grocery store studies focuses on the effects of mergers on consumers, some also describe the effects on workers' wages. Concerning the recent 2022 proposed Kroger-Albertsons merger, the Economic Policy Institute found that the massive merger would decrease wages for 746,000 grocery store workers across 50 metropolitan areas, where yearly wages would have fallen by $334 million in total.[52]

G. Physicians

In 2023, the FTC filed a complaint against U.S. Anesthesia Partners Inc and its PE owner, Welsh Carson, for consolidating nearly every large Texan anesthesia practice, signing illicit price-setting agreements with remaining independent practices, and sidelining major competitors. This case showcases the first time the FTC has challenged a PE roll-up as an anticompetitive monopolization scheme.[53] Physician markets are often narrow in both geography and specific

[48] Daniel S. Hosken, Luke M. Olson, and Loren K. Smith, "Do Retail Mergers Affect Competition? Evidence from Grocery Retailing," *Bureau of Economics Working Paper* no. 313 (Federal Trade Commission, December 2012), 2, https://www.ftc.gov/sites/default/files/documents/reports/do-retail-mergers-affect-competition%C2%A0-evidence-grocery-retailing/wp313.pdf

[49] Hosken, Olson, and Smith, "Do Retail Mergers Affect Competition?," 3.

[50] Hosken, Olson, and Smith, "Do Retail Mergers Affect Competition?," 30.

[51] Argentesi et al., "Effedescribe theof mergers the ct of Mergers on Variety in Grocery Retailing," 2.

[52] Ben Zipperer, "Kroger-Albertsons Merger Will Harm Grocery Store Worker Wages: Workers Stand to Lose over $300 Million Annually," Economic Policy Institute, May 1, 2023, https://www.epi.org/publication/kroger-albertsons-merger/

[53] Karen Hoffman Lent and Kenneth Schwartz, "Antitrust Enforcement Against Roll-ups and Serial Acquisitions," Skadden, Arps, Slate, Meagher & Flom LLP, April 11, 2024, https://www.skadden.com/-/media/files/publications/2024/04/no_more_safety_under_the_radar_antitrust_enforcement_against_roll_ups_and_serial_acquisitions.pdf

skills such as anesthesiology. States can hold down healthcare costs by paying more attention to mergers, PE roll-ups, and serial acquisitions among physicians and physician groups.

Overview of Statute

The "State Premerger Notification and Review Act," also referred to as the "EZ-Merge Act," establishes a simple, low-cost, and easily implementable notification mechanism that will enable the State Attorney General to identify and review acquisitions that may affect local competition, regardless of whether they meet federal HSR thresholds. This act is based on research showing that serial acquisitions and roll-up strategies in local markets lead to significant increases in market concentration and consumer harm without ever triggering federal review.

Filing is triggered whenever a person acquires, directly or indirectly, voting securities, assets, or control of another person, where the acquisition involves assets, operations, facilities, employees, consumers, or business activities substantially located within the state. Transactions already subject to federal HSR reviews are exempt, provided that a copy of such federal filing is submitted to the Attorney General within seven days of filing. The Attorney General may also exempt or add additional transaction classes by rule.

Once a completed notification is filed, a 15-day waiting period begins automatically. If, within that period of time, the Attorney General determines the acquisition may substantially decrease competition within the state, they may issue a notice of extended review, which will extend the waiting period by 60 additional days. This will require supplemental materials and prohibit consummation without further written authorization. If no extended review notices are issued within the initial 15 days, the parties may proceed. It must be noted that, regardless of action, the Act preserves the Attorney General's authority to challenge the transaction later under any other section of this Act or any other provision of law.

Noncompliance carries civil penalties of up to $10,000 per day. The Attorney General can also seek equitable relief in any court of competent jurisdiction, including injunctive relief, structural or behavioral remedies, or any other relief the court deems necessary and appropriate. All submitted materials are confidential, with permitted disclosure to the FTC, the DOJ Antitrust Division, and other State Attorneys General, as well as use in a judicial or administrative proceeding under a protective order.