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1 / 1 From left, Wellmont President and CEO Bart Hove, Wellmont Board Chair Roger Leonard, Mountain States Board Chair Barbara Allen and Mountain States President and CEO Alan Levine are leading the planned merger of the two health care providers.

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Will the feds stand in the way?

HANK HAYES • JAN 11, 2016 AT 8:30 AM

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KINGSPORT — Just as the planned Wellmont Health System-Mountain States Health Alliance merger is gaining traction, there could be something ahead standing in the way.

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It's the federal government.

In recent weeks, the Federal Trade Commission (FTC) has moved three times to challenge proposed mergers of hospital systems.



Those FTC challenges involve blocking the proposed merger of Advocate Health Care Network and North Shore University Health System, two leading providers of general acute care inpatient hospital services in the North Shore area of Chicago.



The agency has also taken action to stop Cabell Huntington Hospital's acquisition of St. Mary's Medical Center in the Huntington, W. Va. area, and Penn State Hershey Medical Center's merger with Pinnacle Health System in the Harrisburg, Penn. area. The Pennsylvania Office of the Attorney General joined the latter challenge.



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In the Chicago situation, the agency argued that merger would likely harm consumers with rising health care costs and diminished incentives to upgrade services and improve quality, according to the FTC complaint filed in federal court.

FTC said Advocate and North Shore are close competitors with a history of upgrading medical facilities, investing in new technologies, and adjusting their approach to managed care contracting to compete

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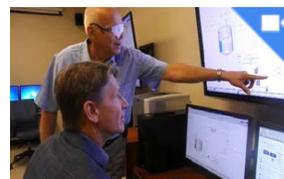
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against each other.

In the West Virginia situation, FTC alleges the two hospitals are each other's closest competitor for health plans and patients, and that the acquisition would substantially lessen competition between the hospitals for patients and for inclusion in health plan networks.

The FTC, which describes itself as a bipartisan federal agency with a unique dual mission to protect consumers and promote competition, says it files a complaint in federal court when it has "reason to believe" that the law has been or is being violated and it appears to the Commission that a proceeding is in the public interest.

Issuance of an administrative complaint marks the beginning of a proceeding in which the allegations will be tried in a formal hearing before an administrative law judge.

U.S. Rep. Phil Roe, R-Tenn., said the FTC apparently doesn't believe the narrative in health care that consolidation of services will lower costs.

"What's happened in the hospital sector is it's so regulated now," Roe, a former physician, said. "The Affordable Care Act (also known as Obamacare) gave hospitals the idea they would get a lot more paying customers. They did get some more but those people weren't able to pay, and now the majority of uncollectable debt are people with insurance."

Medicare also gives Wellmont and Mountain States less reimbursement for the same service offered in, say, California, said Roe.

In a pre-submission report on their merger, Roe pointed out Wellmont and Mountain States put in language about how they would hold down cost increases.

When asked about the FTC's recent actions to block hospital system mergers, Mountain States President and CEO Alan Levine contends the planned Wellmont-Mountain States merger is a completely different matter.

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“Those organizations were not applying for state oversight. Those were traditional, standard mergers,” Levine, who would lead the merged system, said after a briefing on the merger status held at the Bristol Chamber of Commerce.

Indeed, Wellmont and Mountain States plan to file applications for a Certificate of Public Advantage (COPA) with the Tennessee Department of Health and a cooperative agreement with the Southwest Virginia Health Authority in late January.

Should both states approve the applications and the merger becomes final, the state and commonwealth will supervise the new organization.

“That’s why we’re following the regulatory process,” Levine explained. “Federal law permits the supplanting of competition with regulation. As long as we’re being properly regulated by the state, we believe case law precedent in (U.S.) Supreme Court rulings will validate what we are trying to do ... They can’t do anything without the court. The FTC typically has to act through the courts so we would have our say in the courts and make our case. We’re following the law. We’re not close to the edge. We’re right in the middle ... If the COPA is violated, we would have to submit a plan for separation, and that would also subject us to FTC scrutiny at that point.”

Neither Wellmont nor Mountain States, Levine said, have to file any supporting merger documents with the federal government.

The two health care providers, he added, also feel any moves to change the law regulating mergers in Tennessee and Virginia will be turned away by the region’s state lawmakers.

Northeast Tennessee’s top lawmaker, Lt. Gov. Ron Ramsey, said he’s sold on the merger.

“My basic business sense is competition is good,” Ramsey, R-Blountville, said. ” ... Health care is

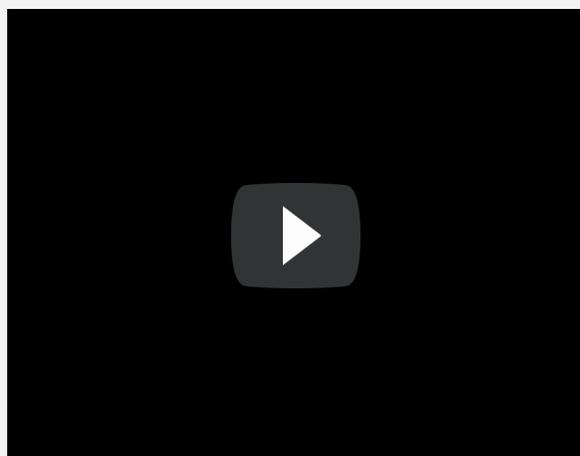
controlled by the federal government and the insurance companies ... What really sold me was (East Tennessee State University President) Brian Noland and the research dollars he tells me can come here (as a result of the merger).”

The full pre-submission report can be viewed at www.BecomingBetterTogether.org.

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