

A.G. Schneiderman Announces Settlement With Utica Hospitals To Address Competitive Concerns

Settlement Ensures Continued Patient Access To Key Health Care Services At Competitive Prices After Hospitals' Merger

NEW YORK – Attorney General Eric T. Schneiderman today announced a settlement with the two general acute care hospitals in the city of Utica, resolving concerns that the hospitals' proposed affiliation would adversely affect competition in the healthcare market in Utica. The settlement allows the two financially troubled hospitals, Faxton-St. Luke's Healthcare and St. Elizabeth Medical Center, to combine their operations to reduce costs and enhance the quality and availability of key healthcare services for patients in the greater Utica area. The settlement's provisions ensure that the hospitals will use their combination for the benefit of patients and not as a platform for exerting market power and imposing higher health care costs on patients. The settlement also ensures continued patient access to key reproductive health services.

"Residents of the greater Utica area, like all New Yorkers, deserve high quality health care at fair prices," said **Attorney General Schneiderman**. "This settlement allows Utica's two biggest hospitals to combine in order to survive in a challenging economic environment, while ensuring that the hospitals will fulfill their promise to use the partnership to improve patients' access to quality health care and not to increase prices."

Faxton-St. Luke's Healthcare and St. Elizabeth Medical Center operate in a challenging economic environment that includes an unusually high refugee population and some of the neediest patients in the state. The hospitals have suffered significant financial losses in recent years, and it is highly questionable that they can independently surmount these challenges without negatively impacting the availability of vital health care services in the Mohawk Valley. The hospitals directly compete with one another, but also face competition from nearby community hospitals and hospitals in nearby cities such as Cooperstown, Syracuse, and Albany. In addition, the scope of competition between the merging hospitals is limited – each hospital provides services that the other does not, and most of each hospital's patients are covered by Medicare or Medicaid, where rates are set by the federal government and not by competition between them.

The settlement allows the transaction to proceed but has various provisions to ensure that the hospitals will not abuse their new market position by foreclosing competing providers from the market or excessively increasing rates directly following the combination. For example:

- › **Prohibition on exclusionary conduct.** The hospitals agree not to require independent physicians to work exclusively at the hospitals, or to require health plans to reimburse competing hospitals or health care providers at the same or lower rates than the health plans reimburse the hospitals.
- › **Temporary rate protection.** The hospitals commit to negotiate in good faith with rate payers (including commercial insurers and governmental managed care insurers). If these payors believe that the hospitals are acting unfairly, the settlement gives the payors the right to continue their currently-existing relationships with the hospitals for five years at current prices, subjected to annual increases not to exceed historic levels.
- › **Continued monitoring.** The settlement allows the Attorney General to ensure that the hospitals have implemented their promised efficiencies prior to termination of the rate-protection provisions.

Because the proposed affiliation agreement also involves the combination of a secular hospital (Faxton-St. Luke's Healthcare) with a Roman Catholic hospital, the settlement also takes steps to ensure that the secular hospital is able to continue its current level of reproductive health services after the transaction, and ensures that admitting privileges will continue to be available at Faxton-St. Luke's Healthcare for independent physicians and medical professionals providing reproductive health services outside of the hospitals.

12/5/2018

A.G. Schneiderman Announces Settlement With Utica Hospitals To Address Competitive Concerns | New York State Attorney General

This matter was handled by Assistant Attorneys General Amy McFarlane, Robert Hubbard and George Laevsky, under the supervision of Antitrust Bureau Chief Eric J. Stock and Executive Deputy Attorney General Karla G. Sanchez. Valuable assistance was also provided by Health Care Bureau Chief Lisa Landau, Civil Rights Bureau Chief Kristen Clarke and Assistant Attorney General Monica Iyer, and Charities Bureau Section Chief Paula Gellman.

Attorney General's Press Office: (212) 416-8060

nyag.pressoffice@ag.ny.gov

Press Release Archive

- > December 2018
- > November 2018
- > October 2018
- > September 2018
- > August 2018
- > July 2018
- > June 2018
- > May 2018
- > April 2018
- > March 2018
- > February 2018
- > January 2018

[VIEW ALL PRESS RELEASE ARCHIVES](#)

Search:

Please enter a search term...