MASSACHUSETTS
HEALTH POLICY COMMISSION

MASSACHUSETTS HEALTH POLICY COMMISSION REVIEW OF

The Proposed Merger of Lahey Health System; CareGroup and its Component Parts, Beth Israel Deaconess Medical Center, New England Baptist Hospital, and Mount Auburn Hospital; Seacoast Regional Health Systems; and Each of their Corporate Subsidiaries into Beth Israel Lahey Health;
AND
The Acquisition of the Beth Israel Deaconess Care Organization by Beth Israel Lahey Health;
AND
The Contracting Affiliation Between Beth Israel Lahey Health and Mount Auburn Cambridge Independent Practice Association

(HPC-CMIR-2017-2)

EXECUTIVE SUMMARY

Pursuant to M.G.L. ch. 6D, § 13
Preliminary Report
July 18, 2018

EXECUTIVE SUMMARY

In July 2017, Lahey Health System (Lahey); Beth Israel Deaconess Medical Center (BIDMC); New England Baptist Hospital (NE Baptist); Mount Auburn Hospital (Mt. Auburn); CareGroup, the corporate parent of BIDMC, NE Baptist, and Mt. Auburn; and Seacoast Regional Health Systems (Seacoast), the parent of Anna Jaques Hospital (Anna Jaques), signed an agreement to become corporately affiliated. The parties agreed to form a new corporate entity, now called Beth Israel Lahey Health (BILH),[2] which would become the sole corporate parent of Lahey, NE Baptist, Mt. Auburn, Seacoast, and BIDMC and its owned community hospitals, merging the hospital systems and all of their subsidiaries into one organization.

In October 2017, the parties' affiliated contracting networks, Beth Israel Deaconess Care Organization (BIDCO), Lahey Clinical Performance Network (LCPN), Lahey Clinical Performance Accountable Care Organization (LCP ACO), and Mount Auburn Cambridge Independent Practice Association (MACIPA) also signed an affiliation agreement. Under that agreement, BILH would create a clinically integrated network (BILH CIN) that would own BIDCO, LCPN, and LCP ACO. MACIPA would remain corporately independent, but would participate in the design, management, and governance of the BILH CIN.[3] The BILH CIN would jointly negotiate and establish contracts with payers on behalf of the BILH-owned and contracting affiliate hospitals[4] as well as employed and independent physicians who currently contract through BIDCO, LCPN, LCP ACO, and MACIPA. The parties have described the proposed BILH merger and BILH CIN affiliations as interrelated components of a single transaction.[5]

The parties describe the proposed transaction as a market-based solution to address rising health care expenditures, price disparities, payment variation, and health inequities that have been highlighted by the Health Policy Commission (HPC), Office of the Attorney General, and others.[6] The parties describe themselves as a high-quality and lower-cost alternative to other

[2] The transaction agreements, notices of material change, and other filings refer to the new corporate entity as "NewCo." The HPC understands that the parties have since named this entity "Beth Israel Lahey Health (BILH)" and refers to the proposed organization by this name throughout the report. *See, e.g.*, Jessica Bartlett, *Beth Israel, Lahey Announce New Name for Mega-Merger*, BOSTON BUSINESS JOURNAL, May 23, 2018, *available at* https://www.bizjournals.com/boston/news/2018/05/23/beth-israel-lahey-announce-new-name-for-mega.html (last visited July 13, 2018).

[3] MOUNT AUBURN CAMBRIDGE INDEPENDENT PRACTICE ASSOCIATION, NOTICE OF MATERIAL CHANGE TO THE HEALTH POLICY COMM'N (July 13, 2017), AS REQUIRED UNDER MASS. GEN. LAWS CH. 6D, § 13, *available at* https://www.mass.gov/files/documents/2017/07/zl/20170713-macipa-caregroup-lahey-bidco-srhs-mcn.pdf (last visited July 13, 2018).

[4] The BILH CIN would establish payer contracts on behalf of the following BILH-owned hospitals: BIDMC, BID-Needham, BID-Milton, BID-Plymouth, Lahey HMC, Northeast, Winchester, Anna Jaques, and NE Baptist. It would also establish contracts on behalf of affiliated hospitals that are part of BIDCO's current contracting network, such as CHA and Lawrence General.

[5] LAHEY HEALTH SYSTEM, NOTICE OF MATERIAL CHANGE TO THE HEALTH POLICY COMM'N (July 13, 2017), AS REQUIRED UNDER MASS. GEN. LAWS CH. 6D, § 13, *available at* https://www.mass.gov/files/documents/2017/07/zo/20170713-lahey-bidco-caregroup-macipa-srhs-mcn.pdf (last visited July 13, 2018).

[6] *See* OFFICE OF ATTY. GEN. MAURA HEALEY, EXAMINATION OF HEALTHCARE COST TRENDS AND COST DRIVERS PURSUANT TO G.L. C. 12C, § 17, REPORT FOR ANNUAL PUBLIC HEARING UNDER G.L. C. 12C, § 17 (October 13,

providers in the market and claim that their expanded geographic coverage and scope of services will make them a more attractive option for payers and self-insured employers, and that they will strengthen access to affordable and equitable health care.

After a 30-day initial review, the HPC determined that the proposed transaction was likely to have a significant impact on costs and market functioning in Massachusetts and warranted further review.[7] Following an opportunity for the parties to respond to the findings in this Preliminary Report, the HPC will issue a Final Report. This transaction also required a Determination of Need (DoN), and the parties filed their DoN application with the Department of Public Health (DPH) on September 8, 2017. In an April 4, 2018 meeting, the DPH Commissioner and the Public Health Council voted to approve the DoN application with conditions.[8] However, the Notice of DoN does not go into effect until 30 days after the CMIR final report and DPH may rescind or amend an approved Notice of DoN on the basis of findings in a CMIR.[9]

This report is organized into four parts. Part I outlines our analytic approach and the data we utilized. Part II describes the parties to this CMIR and their goals and plans for undertaking the transaction. Part III then presents our findings. We conclude in Part IV. Below is a summary of the findings presented in Part III:

1. **Cost and Market Profile:** Historically, the parties have generally had low to moderate prices and moderate spending levels compared to other Massachusetts providers. As Lahey and BIDCO have grown by affiliating with or acquiring new community hospitals, their prices have not generally risen relative to competitors, and their spending has grown at generally the same rate as the rest of the market based on current available data. While BIDMC and Lahey have had some limited success at retaining local care at community hospitals they have recently acquired, shifts in care to their hospitals following past acquisitions and affiliations have come from both lower-priced and higher-priced hospitals, and spending trends for local patients have remained largely unchanged.

2016), *available at* https://www.mass.gov/files/documents/2016/10/ts/cc-market-101316.pdf (last visited July 13, 2018); MASS. HEALTH POLICY COMM'N, 2015 COST TRENDS REPORT: PROVIDER PRICE VARIATION (Feb. 2016), *available at* https://www.mass.gov/files/documents/2017/01/oj/2015-ctr-ppv.pdf (last visited July 13, 2018); MASS. HEALTH POLICY COMM'N, COMMUNITY HOSPITALS AT A CROSSROADS (Mar. 2016), *available at* http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/publications/community-hospitals-at-a-crossroads.pdf (last visited July 13, 2018); MASS. GEN. COURT, SPECIAL COMMISSION ON PROVIDER PRICE VARIATION REPORT (Mar. 15, 2017), *available at* http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/ppv-report-final.pdf (last visited July 13, 2018).

[7] *See* MASS. HEALTH POLICY COMM'N, MINUTES OF THE HEALTH POLICY COMM'N (Dec. 12, 2017) (voting to initiate the cost and market impact review of the BILH transaction), *available at* https://www.mass.gov/files/documents/2018/01/31/20180103%20-%20Meeting%20Minutes%20-%20December%2012%2C%202017%20Meeting.pdf) (last visited July 13, 2018).

[8] MASS. DEPT. OF PUBLIC HEALTH, NOTICE OF FINAL ACTION DON APPLICATION NO. NEWCO 17082413-TO CAREGROUP INC., LAHEY HEALTH SYSTEM INC., AND SEACOAST REGIONAL HEALTH SYSTEMS, *available at* https://www.mass.gov/files/documents/2018/04/17/newco-decision-letter.pdf (last visited July 13, 2018).

[9] DPH may rescind or amend an approved Notice of DoN if the Commissioner determines that the parties would fail to meet one or more of the specified DoN Factors. *See* 105 CMR 100, https://www.mass.gov/files/documents/2017/10/11/105cmr100.pdf (last visited July 13, 2018).

2. **Cost and Market Impact:** After the transaction, BILH's market share would nearly equal that of Partners HealthCare System (Partners), market concentration would increase substantially, and BILH would have significantly enhanced bargaining leverage with commercial payers. BILH's enhanced bargaining leverage would enable it to substantially increase commercial prices, increasing total health care spending by an estimated $138.3 to $191.3 million annually for inpatient, outpatient, and adult primary care services. Additional spending impacts would be likely for other services; for example, spending for specialty physician services would increase by an additional $29.8 million to $59.7 million annually if the parties obtain similar price increases for these services. These would be *in addition* to the price increases the parties would have otherwise received. These figures are likely to be conservative. The parties could obtain the projected price increases, significantly increasing health care spending, while remaining lower-priced than Partners.

   While plans to shift care to BILH from other providers and to lower-cost settings within the BILH system would generally be cost-reducing, there is no reasonable scenario in which such savings would offset spending increases if BILH obtains the projected price increases. Achieving all of the parties' care redirection goals could save approximately $8.7 million to $13.6 million annually at current price levels, or $5.2 million to $9.5 million annually with price increases, offsetting approximately 3% to 7% of the $138.3 to $191.3 million spending increase from projected price increases.

3. **Quality and Care Delivery Profile:** Historically, the parties have generally performed comparably to statewide average performance on hospital and ambulatory measures of clinical quality, with some variation among their hospitals and physician networks on specific measures. They have each developed unique structures to promote and improve the delivery of high-quality health care and have engaged in a wide variety of targeted care delivery initiatives. They have also participated in various government and commercial payer contracting arrangements that promote quality and efficiency, although their participation in individual payment models varies.

4. **Quality and Care Delivery Impact:** The parties have identified some quality metrics for ongoing measurement post-transaction, but have not yet identified baseline data or transaction-specific quality improvement goals. They are considering plans for integrating their unique quality oversight and management structures, and have stated an intention to expand or integrate current care delivery initiatives, but have not yet developed detailed plans for these efforts. While the parties' ongoing planning process may result in initiatives that could improve patient care, it is unclear whether, to what extent, and on what time frame such initiatives may be adopted or what specific impacts any such initiatives might have.

5. **Access Profile**: The hospitals proposing to join the BILH-owned system generally have a lower mix of Medicaid patients than the overall mix in their service areas and a lower Medicaid mix than comparator hospitals, although some serve a higher share of Medicare patients. In contrast, current BIDCO contracting affiliate hospitals that are anticipated to be BILH contracting affiliates (Cambridge Health Alliance, Lawrence General Hospital,

and MetroWest Medical Center) have a higher mix of Medicaid patients. The parties also provide a smaller proportion of inpatient and emergency department (ED) care to non-white patients and Hispanic patients than other large eastern Massachusetts hospital systems, and their patients come from more affluent communities on average. The parties are important providers of behavioral health services in eastern Massachusetts.

6. **Access Impact:** Based on the current patient mix of the proposed BILH-owned hospitals, the BILH-owned system would have the lowest mix of Medicaid discharges and among the lowest proportion of discharges and ED visits for non-white patients and Hispanic patients compared to other large eastern Massachusetts hospital systems. BILH's patients, on average, would also come from more affluent communities. It is not yet clear whether or how BILH's patient mix would change as a result of the proposed transaction, although the parties do not expect significant changes to their current payer mix. The parties' plans for how they might expand behavioral health services and other clinical services are still under development. Thus, it is not yet clear to what extent the transaction would enhance patient access to needed services.

In summary, while the BILH parties have historically been low-priced to mid-priced and have not increased their prices relative to the market as they have grown through smaller transactions to date, the BILH transaction is likely to enable the parties to obtain significantly higher commercial prices across inpatient, outpatient, and physician services. To the extent that they obtain price increases in line with their enhanced bargaining leverage, there is no reasonable scenario in which shifting patients to BILH or from higher-cost to lower-cost settings within BILH will offset such price increases. To date, the parties have not committed to constraining future price increases, despite the fact that their own financial projections indicate that they would be profitable without significant price increases.

The parties have also claimed that the transaction will result in improvements in the quality of patient care and access to services and are developing plans in these areas. Since their plans are still under development, it is not possible at this time to assess the likelihood or degree to which the transaction would result in improvements to health care quality or access, particularly for underserved and vulnerable patient populations such as lower-income patients and patients with behavioral health needs.

We invite the parties to address these and other concerns documented throughout this report in their written response, including any commitments. Following the period for written response, we look forward to publishing our Final Report, including any referrals or recommendations to other state agencies.