

Question of the Week:

With health care consolidation on the rise, what are some key considerations for buyers?

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“We continue to see interest across the health care M&A vertical and buyers need to be ready to move quickly when attractive assets come on the market. The current environment rewards potential acquirers who are willing to consider creative deal structures to bridge valuation issues, such as milestone-based consideration or carve-out transactions, rather than wholeco acquisitions. Innovation and growth remain the driving forces behind buyer interest in health care M&A, together with traditional emphases on building scale, improving cost efficiencies and opportunistic M&A.”

Kunal Dogra, New York, Mergers & Acquisitions

“With the changes in market, buyers in the health care provider arena, who are contemplating a purchase, should focus on uncaptured revenues and missed opportunities with the same critical eye they use to analyze strong historical financial performance. There are an ample number of providers whose financial results do not match their clinical work. However, they are just one or two technological solutions away from turning the corner — for example, a new-age integrated clinical workflow and revenue cycle platform.”

Vinay Kohli, Los Angeles, Litigation

“An increase in consolidation comes with greater scrutiny, not just by federal regulators, but also by state regulators that are taking a more holistic view of the impact to the local community – and not just the impact on rates. For example, what impact will the transaction have on health equity, privacy and security, and if financial incentives are tied to better quality of care? Buyers and sellers should anticipate regulatory scrutiny and prepare a business case that identifies the benefits of the transaction for the greater good.”

Whitney Phelps, New York, Health Care

“Identifying potential antitrust issues early, developing a game plan to shift or minimize risk and creating a compelling defense narrative will be the key to successfully navigating the new reality. Antitrust issues in health care consolidation have been particularly magnified as the current Administration continues to ramp up enforcement actions. Almost two years in, we have seen increased FTC opposition toward consolidation, including hospital merger challenges, intense focus on the increasingly-important role of private equity in health care markets, and deep-dives into health care labor-related activities. With the FTC’s just announced strategic plan – in which the Commission committed to move the agency beyond a ‘consumer welfare’ standard to a more ‘public-interest’ standard – even more enforcement could be on the horizon.”

Colin Kass, Washington D.C., Antitrust

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