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May 3, 2023

Chair Liz Olson  
Ways and Means Committee  
479 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

Dear Chair Olson and committee members:

On behalf of Minnesota Farmers Union (MFU), I write to share our organization's support for HF402, which will provide the Minnesota Attorney General with additional tools for reviewing and approving hospital mergers in Minnesota. We are grateful for Representative Bierman's leadership on this important topic.

MFU is a grassroots organization that has represented Minnesota's family farmers, ranchers and rural communities since 1918 and at our most recent annual convention our members voted to make access to affordable healthcare our top priority for this year. Critical to realizing that vision is addressing the extreme concentration of healthcare, particularly among hospitals in rural communities, and HF402 does that.

Minnesota spent over \$60 billion on healthcare in 2020, with \$20.1 billion spent on hospital care, the largest share of healthcare spending in the state.<sup>i</sup> In 1991 Minnesota spent 16% less than the national average on hospital care, but today spends 5% more according to data from the Centers for Medicare & Medicaid Services (CMS).<sup>ii</sup> Minnesota's per capita consumption of hospital services has also risen more rapidly than states like California, Hawaii and Rhode Island that have stronger oversight of large healthcare transactions than Minnesota.<sup>iii</sup>

This should come as no surprise as a wide body of research has established that hospital mergers lead to higher prices, as does provider consolidation more generally, whether horizontal or vertical consolidation.<sup>iv</sup> A study in the RAND Journal of Economics found that hospitals acquired by out-of-market systems increased prices by about 17% more than unacquired, stand-alone hospitals as well as driving up prices at nearby rivals.<sup>v</sup>

Rural Minnesota has been heavily impacted by this consolidation as it has one of the most highly concentrated hospital markets in the entire country.<sup>vi</sup> A 2019 study in Health Affairs found that highly concentrated hospital markets lead to higher health insurance costs on the individual market, which disproportionately impacts independent business owners like family farmers.<sup>vii</sup> In addition to higher costs, hospital concentration leads to closed hospitals or reduced services. Hospital systems are also increasingly buying up independent physician practices, which further erodes the choices patients have.<sup>viii</sup>

Despite the issues healthcare concentration creates for Minnesotans, mergers continue. The number of Minnesota hospitals that are now part of larger health systems has increased from 32% in 1997 to 72% in 2020.<sup>ix</sup> In 2021 just four healthcare systems accounted for nearly 55% of hospital

operating revenue statewide, a level of concentration often indicating an oligopoly. Part of the challenge is that antitrust law and enforcement are not adequate to address the monopolization of healthcare. Decades of lax enforcement and legal doctrines narrowing the applicability of antitrust law, have left these protections buried under a mountain of bad case law that limits the effectiveness of antitrust lawsuits.

While legal theories might not view cross-market mergers as problematic, the real-world impacts demonstrate they are. HF402 will address the unrealistically high standards for successfully challenging large healthcare mergers under traditional antitrust law by spelling out a broad array of potential factors that could be contrary to the public interest. This includes limiting access to affordable and quality care, reducing delivery to underserved populations, increasing costs for patients, or negatively impacting the market for skilled health care workers. This bill also prohibits any transaction that would substantially lessen competition or tend to create a monopoly or monopsony (monopoly power of a buyer).

Minnesota is also hampered by limited pre-merger notification requirements under Minn. Stat. § 317A.811 within the Nonprofit Corporation law and the general investigative authority the Attorney General has under Minn. Stat. § 8.31. Under existing law, the Attorney General can be left pleading with CEOs to turn over information before a merger is finalized. HF402 rectifies this problem by creating a robust pre-merger notification system for potential mergers with clear timelines and a comprehensive list of information health systems would be required to turn over.

HF402 is a critical piece of preventing further monopolization of our healthcare system and protecting affordability and access. We thank Rep. Bierman for his leadership on this issue and urge the committee to support this legislation. If you have any questions, please contact our Government Relations Director, Stu Lourey, at [stu@mfu.org](mailto:stu@mfu.org) or (320) 232-2047 (C). Thank you for considering the needs and perspectives of Minnesota's farm families.

Sincerely,



Gary Wertish  
President, Minnesota Farmers Union

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<sup>i</sup> <https://www.health.state.mn.us/data/economics/docs/2020spendingrpt.pdf>

<sup>ii</sup> <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsStateHealthAccountsResidence>

<sup>iii</sup> <https://sourceonhealthcare.org/market-consolidation/>

<sup>iv</sup> <https://www.kff.org/health-costs/issue-brief/what-we-know-about-provider-consolidation/>

<sup>v</sup> <https://doi.org/10.1111/1756-2171.12186>

<sup>vi</sup> <https://sourceonhealthcare.org/market-consolidation/>

<sup>vii</sup> <https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05491>

<sup>viii</sup> [bit.ly/physiciansadvocacyinstitutereport](http://bit.ly/physiciansadvocacyinstitutereport)

<sup>ix</sup> <https://www.health.state.mn.us/data/economics/chartbook/docs/section8a.pdf>