

AG wants to reduce hospital prices

Cooper considers using antitrust laws and suggesting new legislation

By Ames Alexander and Joseph Neff

Calling the state's health care costs artificially high, N.C. Attorney General Roy Cooper says he will examine whether to use antitrust laws or new legislation to reduce them.

"I'm concerned about this issue," Cooper told the Observer. "Health care costs are high enough without artificial boosts that could come from lack of competition."

Cooper's announcement comes in the wake of antitrust investigations into hospitals in other states. It also follows an Observer story showing large nonprofit hospitals are dramatically inflating prices on chemotherapy drugs at a time when they are cornering more of the market on cancer care.

In a joint investigation published last month, the Observer and The News & Observer of Raleigh found hospitals are routinely marking up prices on cancer drugs two to 10 times over cost. At the same time, hospitals are increasingly buying the practices of independent oncologists, then charging more for the same chemotherapy in the same office.

A previous investigation by the two newspapers, published in April, showed consolidation has given hospitals leverage to demand higher payments from insurance companies. That investigation also found North Carolina hospitals are among the most power-

ful interest groups in state politics, a fact that could neutralize any push for legislative reform.

Cooper said there's little question health care costs too much. The issue, he says, is whether a recent increase in consolidation has contributed to that problem. His staff will study whether antitrust laws - which are designed to prohibit monopolies and other anticompetitive arrangements - are the right tool for reducing costs.

Cooper said his lawyers will talk with officials from the Federal Trade Commission and with attorneys general in other states who have used antitrust laws to investigate consolidation.

A number of hospital systems in North Carolina have grown into profitable, fast-growing giants. Carolinas HealthCare System, a \$7 billion chain that runs more than 30 hospitals, has built more than \$2 billion in investments and owns more than \$1 billion in property. Now the nation's second-largest public hospital system, it has posted average annual profits of more than \$300 million in the past three years.

Novant Health, which owns 13 hospitals, generates more than \$3 billion in annual revenue. The two systems own all hospitals in Mecklenburg.

The newspapers' April investigation found Charlotte-area hospitals generate some of the nation's

largest profit margins. The region's hospital prices are about 5 percent higher than the national average, and comparable to those of larger cities, according to Aetna insurance company.

Meanwhile, a number of small, rural hospitals in North Carolina are struggling financially and feeling pressure to join with larger hospital systems.

The N.C. Hospital Association says the state's hospitals are committed to complying with antitrust laws. Consolidation hasn't driven up prices inordinately, the association says.

The group pointed to data showing hospital costs in North Carolina are below those in most other states. By one measure - hospital expenses per in-patient day - North Carolina was 15 percent below the national average in 2010, according to American Hospital Association figures.

"Consolidation in North Carolina health care is being driven by an evolving regulatory and market environment, one that demands higher quality and lower costs," the hospital association said in a statement. "These two goals can be achieved only through economies of scale and greater efficiency among providers."

Cooper's staff likely will meet with insurance company officials who complain they're in a bind, unable to do without the hospitals in large systems and forced to pay them too much. The staff also plans to meet with hospital industry representatives, who argue that consolidation has led to fewer administrative costs, lower prices and better service. A meeting with hospital association lawyers should happen in the next two weeks, Cooper said.

AG: New laws could be best fix

Antitrust laws are "difficult to enforce," Cooper said. For that reason, he said, his office also will examine whether new legislation would be a better remedy.

"You may be able to accomplish with a piece of legislation much more than you could accomplish with a protracted antitrust lawsuit," he said.

Cooper said it's premature to speculate about what such legislation might look like. But he suggested new rules could be aimed at structuring hospital

mergers so they're less likely to drive up prices.

The hospital association said new legislation isn't needed and "could be harmful to advancing the goals of health care reform."

If lawmakers attempt to change the system, they may face an uphill fight. The newspapers' April investigation found the hospital association rarely loses when it comes to protecting the financial interests of its members. Last year, for example, a senior state legislator proposed limiting sales tax refunds to the state's largest hospitals. The hospital association ensured that the bill was never even discussed in committee.

"The hospitals constitute one of the strongest political forces in the state," said Adam Searing, director of the N.C. Health Access Coalition. "Unless legislation is structured so that most hospitals think it's a pretty good idea, it's going to be difficult to get that legislation passed."

The hospital association has been generous to people in power. Since 2000, it has contributed \$21,000 to Cooper's election campaigns. The association has handed out more than \$1 million to state candidates over the past decade, ranking in the top 10 state PACs for political donations.

The hospital industry's checks often don't come in the mail. Instead, a hospital executive or board member hand-delivers the contributions. The hospital association encourages hospital officials to forge relationships with local lawmakers.

High costs imperil lives

Hospitals in North Carolina are increasingly buying physician offices, Cooper said.

Most oncologists in the Charlotte area work for hospitals, the newspapers' most recent investigation found. And in the Raleigh-Durham area, nearly 90 percent of oncologists are employed by hospitals.

The newspapers also found two of the state's largest hospital systems - Carolinas HealthCare and Duke University Health System - appear to charge more than most hospitals for common cancer drugs.

Carolinas HealthCare said its pricing for chemotherapy is "comparable to health care providers across

the country."

U.S. Sen. Chuck Grassley, R-Iowa, Congress' leading critic of nonprofit abuses, last month asked three of North Carolina's largest hospitals to share information about their use of a rapidly growing discount drug program, saying they don't appear to be passing along the "massive" savings to patients.

Cooper said he is troubled by apparent inequities in billing practices, with some North Carolina patients being charged "significantly more than others based upon their insurance or lack thereof, or whether their insurance company has been able to negotiate a better deal than someone else's."

"I'm concerned about the consumer who ... may have an insurance company that has not negotiated as good a rate with a provider - and who cannot afford a particular treatment to save their life," said Cooper, a former state lawmaker who is serving his 12th year as attorney general. "We've seen those instances."

Hospital officials acknowledge they must charge higher prices on some patients and services to cover

losses on others. They have a name for the practice: cost-shifting.

The attorney general said the current system also makes it hard for many prospective patients to determine what procedures will cost them. That, in turn, makes it hard for patients to shop around, he said.

"Consumers should have more information about the ultimate cost of potential procedures," he said.

Some top state lawmakers - including House Speaker Thom Tillis and Senate President Pro Tem Phil Berger, both Republicans - have agreed that patients need an easier way to find key information about hospital pricing. Tillis said previously that lawmakers will likely work with the hospital industry to make more data available.

But in May, a House subcommittee rejected a plan by Gov. Bev Perdue to make hospital bills more transparent and understandable.

News and Observer database editor David Raynor contributed.