



**American Hospital  
Association**

Liberty Place, Suite 700  
325 Seventh Street, NW  
Washington, DC 20004-2802  
(202) 638-1100 Phone  
[www.aha.org](http://www.aha.org)

October 13, 2009

The Honorable Patrick Leahy  
Chairman, Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy:

On behalf of the American Hospital Association's (AHA) more than 5,000 member hospitals, health systems and other health care organizations, and our 40,000 individual members we appreciate the opportunity to write in support of the "Health Insurance Industry Antitrust Enforcement Act of 2009" S. 1681. The bill promotes a limited repeal of the McCarran-Ferguson antitrust exemption available for health insurers for price fixing, big rigging and market allocation. AHA believes that the health insurance industry should be governed by the same antitrust laws and policies that apply in other sectors of our economy, including health care. Any exemptions should be narrow and carefully tailored to achieve a procompetitive purpose.

AHA has recently articulated its concern about the abuse of market power in the health insurance industry in a letter and background paper shared with the Department of Justice's Antitrust Division (DOJ) in May. We urged the Division to step up its enforcement against health plan mergers and other anticompetitive conduct because the increase in concentration and increasingly anticompetitive conduct was harming consumers, hospitals and other caregivers and could imperil health care reform.

The recent Kaiser Family Foundation and the Health Research & Educational Trust (HRET) survey confirms that the cost of health insurance premiums continues to outpace inflation and the growth in most American's wages. The survey reported that family health insurance premiums rose about 5 percent this year, which is much more than general inflation (which fell 0.7 percent during the same period). Workers' wages went up 3.1 percent during the same period. Since 1999, premiums have gone up a total of 131 percent, far more rapidly than workers' wages (up 38 percent since 1999) or inflation (up 28 percent since 1999).

We are also concerned about how the insurance industry's market power might impact a health insurance exchange (or multiple exchanges) where consumers will have the opportunity to compare health insurance offerings in a new and robust marketplace. A recent *New York Times*



Chairman Patrick Leahy

October 13, 2009

Page 2

article warned that “[w]ithout careful design and adequate rules of fair play . . . the exchange might not actually stimulate new competition among the nation’s health insurers.”

S.1681 should help to achieve the goal of “fair play” by eliminating antitrust protection for price-fixing, bid rigging and market allocation activities that could undermine the success of a health insurance exchange and the coverage it promises for millions of Americans.

If you have any questions, please feel free to contact Melinda Hatton, the AHA’s senior vice president and general counsel at (202) 626-2336 or [mhatton@aha.org](mailto:mhatton@aha.org).

Sincerely,

Rick Pollack

Executive Vice President