



U. S. Department of Justice

Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

December 10, 2009

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your letter, dated November 3, 2009, to the Antitrust Division of the Department of Justice regarding hospitals' and other health care providers' clinical integration programs, and requesting that the Division work with them to develop guidance as to the antitrust treatment of their integration efforts. The Department appreciates having the benefit of your perspective. An identical response has been sent to each of your colleagues who joined in your letter.

Because many joint ventures create efficiencies and provide benefits to consumers, the Department believes that hospitals and other providers must be able to implement procompetitive integration models with confidence in their understanding of whether their actions violate the antitrust laws. The Department and the FTC already have issued the *Statements of Antitrust Enforcement Policy in Health Care* and the *Antitrust Guidelines for Collaborations Among Competitors* (Joint Venture Guidelines). These documents have helped guide companies to pursue integration models without running afoul of the antitrust laws.

The Department recently has spoken with many health care provider groups about their interest in additional guidance to help them move forward with their clinical integration models and will make it a priority to quickly examine any proposals they submit to the Department. These discussions will also help us determine what general guidance steps to take next.

In addition, the Department is paying close attention to changes in the health care industry—including legislative proposals and actions—and will carefully consider whether such changes increase the role that guidance can play in identifying collaborative business practices that increase efficiency and benefit customers. As the health care reform process proceeds, the Department will listen carefully to the questions, concerns, and requests of the provider communities as they consider potential new business models, and will consider suggestions from interested parties about the need for further clarification or modifications to the agencies' guidance documents. The Department has tentatively planned to launch the beginning of this review process with industry, consumers and other interested parties in February 2010. The

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Department remains committed to providing clear guidance to health care providers and others in the health care industry to help them identify and understand any antitrust issues as they explore new ways to collaborate to increase efficiency and benefit consumers through lower cost, higher quality care.

Thank you for bringing your concerns to our attention and for your interest in antitrust enforcement. If we can be of further assistance on this or any other matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Weich". The signature is fluid and cursive, with the first name "Ronald" being more prominent than the last name "Weich".

Ronald Weich  
Assistant Attorney General