



**American Hospital
Association®**

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June 16, 2015

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Goodlatte:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) is pleased to support H.R. 2745, the Standard Merger and Acquisition Reviews Through Equal Rules Act of 2015, also known as the SMARTER Act.

We do so because of the importance of standardizing the merger review process between the two federal antitrust agencies: the Department of Justice's (DOJ) Antitrust Division and the Federal Trade Commission (FTC). Hospitals, in particular, have been adversely impacted by the ability of the FTC to use its own internal administrative process to challenge a transaction. Specifically, while the DOJ litigates its merger cases entirely in federal court before an impartial judge, the FTC has used the difference in authority between the two federal antitrust agencies to subject hospital transactions to what amounts to double jeopardy: commencing administrative litigation while at the same time pursuing a preliminary injunction in federal court. This unfair and punitive tactic should not be permitted. Recently, the FTC has volunteered to change this practice, but legislation remains necessary, as the FTC has previously volunteered then reinstated the practice of administrative litigation. Only legislation will ensure the end of this maneuver. While AHA supports enforcement of the antitrust laws, relying exclusively on the federal courts to determine the competitiveness of a transaction ensures that hospitals, and others, receive a full hearing on the merits.

If you have any questions, please contact Erik Rasmussen, vice president for legislative affairs, at erasmussen@aha.org or (202) 626-2981.

Sincerely,

Rick Pollack
Executive Vice President

Cc: The Honorable Blake Farenthold
Subcommittee Vice-Chairman
Regulatory Reform, Commercial and Antitrust Law

