

# AMERICAN COLLEGE OF NURSE-MIDWIVES



## *Antitrust and Restraint of Trade Resource Packet*

2004

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## **THE AMERICAN COLLEGE OF NURSE-MIDWIVES**

This publication is designed to provide accurate and authoritative information with regard to the subject matter covered. It is produced with the understanding that the publisher is not engaged in rendering legal, accounting or other professional service. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

### ***Acknowledgements***

This packet was developed by Alyson Reed, MA, ACNM Policy Analyst, in consultation with Karen Fennell, RN, MS, ACNM Senior Policy Analyst, and Art Lerner, JD, for the law firm of Crowell & Moring LLP. The list of relevant case law and bibliography were prepared by Lara Cartwright-Smith, ACNM Law Intern, and updated in 2004 by Crowell & Moring LLP.

## OVERVIEW OF ANTITRUST ISSUES

Antitrust laws are intended to ensure open and fair competition by preventing monopolistic or anticompetitive conduct. Federal antitrust law prohibits monopolization, attempted monopolization, and contracts, combinations and conspiracies in restraint of trade. State laws also contain antitrust provisions.

The antitrust laws provide an important protection against such conduct, whether by individual physicians or other powerful entities in the health care industry, such as hospitals and health plans. Antitrust law also protects consumers from potentially anticompetitive activities in which health care providers might engage.

This Resource Packet is intended to help ACNM members sort through the issues and protect themselves against anticompetitive activities. There are many steps that CNMs can take to defend themselves and their practices. This packet offers:

- A tool for use in evaluating your situation
- Strategies for responding effectively to a possible restraint of trade situation
- Contact information for state and federal offices engaged in antitrust enforcement
- A selection of relevant case law
- A bibliography of additional resources
- A glossary of relevant terms

Since the majority of births in the U.S. are attended by physicians, CNMs often see themselves as the “David” figure taking on the “Goliath” of the health care industry. Given this perception, it is not surprising that the American College of Nurse-Midwives (“ACNM”) frequently hears from members who suspect that others are seeking to “restrain their trade” or otherwise act in an anticompetitive manner. However, it is important to keep in mind that seemingly unfair or restrictive behavior may not always violate federal or state antitrust laws.<sup>1</sup>

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<sup>1</sup> If the situation that you are facing does not fall under the protection of the antitrust laws, it might be resolved through contract law, mediation or some other means. If you have questions about how to handle a particular situation, you may contact ACNM for general suggestions.

## EVALUATING YOUR CASE

Antitrust cases often arise in the context of medical staff issues, such as hospital privileging standards that impose burdensome physician supervision requirements or otherwise limit the scope of nurse-midwifery practice. For example, some view mandatory supervision requirements as the result of concerted action by physicians to create a barrier to midwifery practice. Anticompetitive behavior may also arise in the context of credentialing or managed care contracting, which can both be used to try to improperly limit patients' access to CNMs. Another concern is that malpractice insurance surcharges for physicians who collaborate with CNMs may unreasonably restrain nurse-midwifery practice, particularly if the insurance company is physician-owned or controlled, and the surcharge cannot be supported by actuarial data.

While an individual or organization may indeed engage in activities that are unfair and cause significant problems for a midwife, those activities may not necessarily constitute a federal or state antitrust violation. Even if your circumstances sound similar to those of successful legal challenges to anticompetitive behavior, you should remember that every case is fact-specific, and a court will conduct a case-specific analysis.

To assert an antitrust claim, a private plaintiff is required, as a threshold matter, to make allegations that satisfy three "standing" requirements:

1. A violation of the antitrust laws;
2. A threatened or real injury to business or property; and
3. Evidence that the antitrust violation caused the injury.

One of the most common antitrust violations that occurs in connection with privileging, credentialing, contracting and insurance surcharges is an unlawful conspiracy to restrain a non-physician provider's practice. In order to prove a conspiracy that violates the antitrust laws, a claimant must show:

1. An agreement or conspiracy among two or more persons or distinct entities;
2. That was intended to harm or restrain the practice of an actual or potential competitor(s);
3. Which actually injures competition in the market for the relevant services (e.g., maternity services).

What does this mean? To help you evaluate a given situation, ACNM has included below a discussion of how the courts have applied these concepts in the context of medical privileging and professional liability insurance. A list of more general considerations to help you evaluate whether a given situation may violate the antitrust laws follows.

### Medical Staff Privileging

Recent testimony before the Department of Justice ("DOJ") Antitrust Division and the Federal Trade Commission ("FTC") addressed concerns that "physicians may use their market power to

disadvantage non-physician competitors, such as nurse midwives.” Improving Healthcare: A Dose of Competition, U.S. DOJ and FTC, chp. 2, p.22 (July 2004). This problem may be particularly acute with respect to hospital medical staff privileging, as physician bodies making privileging decisions may have anticompetitive motivations for imposing unwarranted restrictions on nurse-midwifery practice. The American Bar Association’s *Antitrust Health Care Handbook* indicates that courts often look at the following factors to determine whether there has been an improper agreement:

- The reason for the denial, modification or revocation of the plaintiff’s staff privileges;
- The standards used by the hospital or other health care facility in the denial, modification or revocation process;
- The extent to which these standards reasonably advance proper hospital or facility objectives;
- The relevant product, service and geographic markets affected by denying, revoking or modifying staff privileges;
- The extent to which denying, revoking or modifying staff privileges excludes the plaintiff from the relevant market, affects patients’ choice of providers, or is otherwise anticompetitive; and
- Evidence that the hospital or facility acted for anticompetitive reasons.

American Bar Association, *Antitrust Health Care Handbook*, 69-75 (3<sup>rd</sup> ed., 2004). Courts will also examine whether the questioned decision was influenced by threats or coercion, and whether the decision was made by the hospital itself, or was, in fact, made by a physician body with rubber-stamp approval by the hospital.

### Physician Malpractice Insurance Denials and Surcharges

Federal enforcement authorities have, in some cases, investigated physician-owned or controlled insurance companies that have acted in an anticompetitive manner to restrict the practice of physicians who affiliate with CNMs. For example, the Federal Trade Commission initiated enforcement proceedings against a Tennessee-based insurer who declined coverage for physicians who consulted with independent CNMs without actuarial support. *In the Matter of State Volunteer Mutual Inc. Co., Inc.*, 102 F.T.C. 1232 (September 28, 1983). The consent decree imposed by the FTC in that case prohibits the insurer from adopting any underwriting policies or criteria that would discriminate against physicians choosing to work with CNMs without ensuring that there is a reasonable underwriting basis for such action. The consent decree was “in settlement of alleged violation of federal law prohibiting unfair acts and practice and unfair methods of competition.”

For additional information on physician malpractice insurance denials and surcharges, see the ACNM resource packet available at [http://www.acnm.org/pubs/ProfessionalLiability\\_RP2.pdf](http://www.acnm.org/pubs/ProfessionalLiability_RP2.pdf).

### General Considerations

Whatever the context, midwives considering whether to pursue an antitrust complaint should consider whether any of the following elements are present:

1. The patient market for maternity services constitutes a relevant product market to be evaluated for competitive harm. In other words, is there a distinct patient demand for maternity services, including services by nurse-midwives and physicians, such that it makes sense for the court to consider the impact of the objectionable conduct on maternity services specifically, rather than on health care services generally? This is important because the more narrowly drawn the market, the easier it is to demonstrate adverse competitive impact;
2. The parties' conduct adversely affects midwives, but also potentially harms competition in the patient market for maternity services. That is, the objectionable conduct has a negative affect on consumer choice and access;
3. The potential competitive harm is being assessed within an appropriate geographic market area for maternity services to patients, and not an artificially narrow or overly broad area. For example, the denial of privileges to nurse-midwives in one town may adversely affect the availability of nurse-midwife services in that town, but have a limited adverse impact if nurse-midwife services are readily accessible in a neighboring town and patients from the first town routinely seek services from providers in the second town;
4. The evidence suggests that the action taken unreasonably restrains competition, such that the harm to competition outweighs legitimate business or quality concerns. Courts often defer to a hospital's decision with respect to staff privileges if the decision is based upon a legitimate patient care-related concern;
5. The evidence suggests a conspiracy (see the factors listed on page three). A unilateral decision does not constitute an agreement in restraint of trade.
6. You have actually suffered or will suffer ascertainable and measurable financial harm.

If several of these elements are present, it is possible that you may be faced with a restraint of trade. Please refer to the section below on "Responding to a Possible Restraint of Your Trade" for recommendations on how to proceed.

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### **RESPONDING TO A POSSIBLE RESTRAINT OF YOUR TRADE**

If you believe you are being harmed by anticompetitive activities, it is important to carefully consider the overall situation. Try to consider the problem as objectively as possible to see if there is a basis for an amicable solution. Draw on published research and clinical standards to educate those involved in the process who may be unfamiliar with the status and track record of

nurse-midwives. Make use of available data on the popularity of midwives' services, and the potential that their practice at a hospital will enhance the hospitals' market position, patient care and competitiveness. Consider including:

- Today's CNM brochure<sup>2</sup>
- Standards for the Practice of Nurse-Midwifery<sup>3</sup>
- State Fact Sheet for your state
- Resources & Bibliography: Quality and Effectiveness of Nurse-Midwifery Practice<sup>4</sup>
- Evidence-Based Health Care brochure
- Reprint of one or more studies from the effectiveness literature

If, despite these efforts, the problem appears severe, you should start gathering evidence:

- Create a paper trail wherever possible (keep copies of all relevant documents)
- Use a telephone log to document your calls
- Ask those you speak with to put what they say in writing;
- Summarize conversations and follow-up in writing with requests for confirmation.
- Consider using the following sample letter as a guideline.

Dear \_\_\_\_\_:

Thank you so much for taking time to meet/speak with me yesterday to discuss . . .  
 I am glad . . . was able to join us. I believe you understand that I am having problems  
 with . . . You suggested that I need to . . . (or) I hope you will reconsider your position  
 that . . . (or) As suggested by you, I will . . . (or) It is my understanding that . . . (or) I  
 am looking forward to hearing from you . . . (or) It is my understanding that you will  
 provide me with . . . If I do not hear from you to the contrary, this will confirm your  
 agreement with the above.

You might also wish to solicit support from colleagues in gathering evidence. Consult with CNMs and other non-physician providers in your community about their experiences with restraint of trade and any successful tactics they have employed.

Consider sending letters to the alleged "offenders" and requesting a meeting to resolve your concerns.

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<sup>2</sup> Available from the ACNM Resource Catalog, Stock ID #201

<sup>3</sup> Available from the ACNM Resource Catalog, Stock ID #901, or from the ACNM Web site, or Fax on Demand, Item #2004

<sup>4</sup> Available on the ACNM Web site.

Consider contacting state and federal enforcement agencies to seek their advice and determine if they would be willing to investigate. Follow-up in writing as appropriate.

Consider contacting your state legislature.

Consider contacting news outlets to inform them of possible anticompetitive behavior.

Consider consulting an attorney with experience in antitrust cases for advice. ACNM or your local bar association may be able to help you with a referral.

### ***Questions to Consider***

Have you fully explored possible amicable solutions to the problem?

Have you made full use of available literature, surveys and clinical standards to educate the intended audience on midwives' clinical training and outcomes, and on their potential value in expanding a hospital's services and market presence?

Are you prepared to lose your job? Will you lose this job whether or not you proceed with an antitrust complaint? Do you need to start cultivating other avenues of employment?

Who, besides you, is affected by the restraint of trade and will that individual(s) help you fight such restraint?

Can you find a way to change the situation without accusing the other party of committing an antitrust violation?

If you have been accused of substandard practice, are you innocent? Have you taken appropriate responsibility for any error you might have made? Is now the best time to pursue an antitrust complaint?

Who can you talk to in confidence?

Is it ever appropriate to go to the news media? If yes, when is the best time? Have you identified sources that you might want to approach?

Can you afford the cost of pursuing your complaint to its final conclusion?

## REPORTING SUSPECTED ANTITRUST VIOLATIONS

The federal antitrust laws are enforced by the Federal Trade Commission (“FTC”), the Antitrust Division of the U.S. Department of Justice (“DOJ”) and private plaintiffs, such as CNMs. In addition, most states have antitrust laws which are enforceable by the state Attorneys General (please refer to the list of state offices in this packet). Each of these agencies can sue to prevent unlawful conduct or obtain various civil remedies. The agencies may investigate an alleged antitrust violation on their own initiative or at the request of the President, Congress, another government agency, or private organizations and individuals. However, the enforcement agencies have limited resources (staff and financial) to bring antitrust cases. Therefore, before government agencies undertake an enforcement investigation, the staff will expect you to have gathered and documented, to the extent practicable:

1. The identity of the parties involved, with their correct names and corporate/legal status (i.e., for-profit corporation or non-profit corporation);
2. A general overview of the local market environment, such as the breadth of the market area for maternity services (including information on how far patients travel for medical services in your area) and the available choices for hospital and women’s health services in the market area;
3. A clear description of the events, their procedural status and relevant time lines;
4. Whether the restraint in question has a broader community impact, beyond its impact on you personally; and
5. What leads you to believe that the activity is the product of a conspiracy, rather than simply a considered decision with which you disagree.

The FTC and DOJ Antitrust Division websites contain useful material concerning health care antitrust, including cases, consent orders, speeches, policy statements, advisory opinions, business review letters, and contact information.

### *U.S. Department of Justice*

The authority to enforce the civil and criminal provisions of the federal antitrust laws in court rests with the DOJ. To report suspected violations, contact:

Antitrust Division - New Case Unit  
950 Pennsylvania Ave., N.W. Suite 3322  
Washington, DC 20530  
(202) 307-2040 or 1-888-647-3258

The DOJ antitrust division website is <http://www.usdoj.gov/atr>

The email for reporting new violations is [newcase.atr@usdoj.gov](mailto:newcase.atr@usdoj.gov)

### ***Federal Trade Commission***

The authority to enforce the Federal Trade Commission Act through enforcement proceedings, usually in administrative proceedings, rests with the FTC. If litigated, the trial is normally held before an administrative law judge.

To report suspected violations to the FTC, contact:

Health Care Division  
Bureau of Competition  
Federal Trade Commission  
Washington, DC 20580  
(202) 326-2756  
The FTC website is <http://www.ftc.gov>  
You can send an email to [antitrust@ftc.gov](mailto:antitrust@ftc.gov)

To report a problem to your *regional* FTC Office, consult Appendix A of this packet for contact information.

### ***State Attorneys General***

Both state and federal antitrust laws are enforced by state attorneys general. The types of penalties imposed by state antitrust law parallel those imposed by federal antitrust law, but they vary from state to state. For a list of antitrust contacts in state Attorneys General offices, consult Appendix B.

## **BRINGING YOUR OWN ANTITRUST CASE**

Individual plaintiffs can also bring antitrust cases. A successful antitrust plaintiff can secure injunctive (conduct) relief to remedy antitrust violations and can be awarded triple the actual damages suffered plus reimbursement of their attorneys fees. Bringing an antitrust case can be very expensive, though, and gathering and establishing the necessary facts can be difficult. If you are interested in exploring the possibility of bringing an antitrust suit, you should consult with knowledgeable counsel who can help you evaluate the costs and benefits of proceeding.

## ANTITRUST AND RELATED CASE LAW RELEVANT TO MIDWIVES AND OTHER NON-PHYSICIAN PROVIDERS

*Arizona v. Maricopa County Medical Society*, 457 U.S. 332 (1982).

U.S. Supreme Court held that the Maricopa Foundation, which represented 70% of the practitioners in Maricopa County, was practicing improper price fixing by setting *maximum* prices. Court states that there was “anticompetitive potential in all price-fixing agreements,” whatever the motive. (See also *Kuttner* article in Bibliography).

*Arkansas State Nurses Association v. Arkansas State Medical Board*, 677 S.W.2d 293 (Ark. 1984).

Challenge of regulations enacted by the Medical Board which restricted the number of RNPs a physician could collaborate with and defined malpractice for physicians. The court found the provision restricting physician collaboration with nurse practitioners to be arbitrary and that the definition of malpractice was outside of the authority granted to the Medical Board. The regulations were held to be invalid in both cases.

*County of Tuolumne v. Sonora Community Hosp.*, 236 F.3d 1148 (9th Cir., 2001).

A county and a family physician did not state an antitrust violation claim when they were closed off from entering the C-section market. The head of one hospital’s threat to “reevaluate” its relationship with another if they physician was given privileges was not direct evidence of a conspiracy because there was no “meeting of the minds” between the two, and thus, no violation.

*Defiance Hosp., Inc. v. Fauster-Cameron, Inc.*, 2004 U.S. Dist. LEXIS 23175 (D. Ohio, 2004).

A hospital and medical services provider claimed that a clinic operator and its employees engaged in illegal monopolization because they had entered into non-competition agreements, refused to share rotations with the provider, demanded primary source agreements and refused service to patients who did not enter into primary source agreements. The court found that the relevant market was a twenty minute drive radius around the hospital, instead of the larger six county radius, as the defendants argued, because the hospital’s on call policy requires those on call to reach the hospital within twenty minutes of being paged. The court granted the plaintiff’s summary judgment motion on the monopoly issues.

*Forbes Health System Medical Staff*, 94 F.T.C. 1042 (1979) (consent order).

FTC consent agreement resolved allegations of anticompetitive behavior and collusion on the part of the Forbes Health System Medical Staff which restrained trade and denied consumers' access to innovative health care arrangements. A principal device used by the defendant medical staff was to unreasonably delay processing and acting on applications.

*Franzon v. Massena Memorial Hospital*, 977 F. Supp. 160 (N.D.N.Y. 1997).

Court denies summary judgment for most defendants in non-antitrust case where plaintiff physician and his medical center claimed they were targets of conspiracy due to plaintiff physician's support for nurse midwifery.

*Gonzalez v. San Jacinto Methodist Hospital*, 1994-2 Trade Cas. (CCH) P 70,840 (Tex. Ct. App. 1994).

Central issue is whether an exclusive arrangement between hospital and physician(s) unlawfully restrained trade. Court held that the plaintiff did not show an actual adverse effect on competition, so there was no antitrust case. In a different case, the Court of Appeals of Texas explains that proof of complete foreclosure from the ability to compete is not necessary in every restraint of trade case.

*Medical Staff of Memorial Medical Center*, 110 F.T.C. 541 (1988) (consent order).

A medical staff of a hospital in Savannah, Georgia, agreed not to deny or restrict hospital privileges to certified nurse-midwives unless the staff has a reasonable basis for believing that the restriction would serve the interests of the hospital in providing for the efficient and competent delivery of health care services. The agreement settled charges that the medical staff, acting through its credentials committee, had conspired to suppress competition by denying a certified nurse-midwife's application for hospital privileges without a reasonable basis.

*Minnesota Ass'n of Nurse Anesthetists v. Unity Hosp.*, 208 F.3d 655 (8th Cir., 2000).

Allegations are that a major health system and number of anesthesiologists conspired to restrain trade in the anesthesia market via discharge of staff nurse anesthetists. Court found plaintiffs unable to prove either a conspiracy or harm to competition because they did not demonstrate market power or actual, sustained adverse effects on competition.

*Nilavar v. Mercy Health Sys.*, 142 F. Supp. 2d 859 (D. Ohio, 2000).

Radiologist plaintiff was a member of a radiology group that contracted with the defendant hospital system to provide services. Negotiations to provide exclusive service failed, and three radiologists from the plaintiff's group created their own group, which won the exclusive service contract. Radiologist's suit for antitrust violations survived summary judgment because (1) it was within the statute of limitations and (2) he properly alleged antitrust injury by stating what the relevant market was and showing that competition was injured in that market.

*Nurse-Midwifery Associates v. Hibbett*, 918 F.2d 605 (6<sup>th</sup> Cir. 1990).

Plaintiffs alleged conspiracies among hospitals and their medical staffs in violation of the Sherman Act. Appeals court held that the 'intracorporate conspiracy doctrine prevented a finding of conspiracy between a hospital and its medical staff but did not preclude a conspiracy among individual staff members.' The court refused to uphold summary judgment for the defense and remanded (referred) the case back to the court of origin for a decision on its merits. The courts are split on this issue, though, and the Eleventh and Ninth Circuits have not extended immunity from the hospital to its medical staff. Islami v. Covenant Medical Ctr., 822 F. Supp. 1361, 1381 (D. Iowa, 1992)

*Oltz v. St. Peter's Community Hospital*, 861 F.2d 1440 (9th Cir. 1988).

Nurse anesthetist brought action against hospital and anesthesiologists following his termination due to exclusive staff agreement between defendants. Jury found hospital liable and awarded damages, trial court ordered new trial, appellate court affirmed jury's findings of intent to injure competition among defendants and conspiracy between hospital and its medical staff.

*State Volunteer Mutual Insurance Company, Inc.*, 102 F.T.C. 1232 (1983) (consent order).

Consent order requiring a Tennessee physician-owned insurance company providing malpractice insurance not to unreasonably discriminate against physicians who work with independent nurse midwives. The agreement settled complaint charges that the insurance company had terminated the insurance of a physician because he had agreed to serve as a back-up physician to certified nurse-midwives who were in independent practice.

*Sweeney v. Athens Regional Medical Center*, 709 F.Supp. 1563 (M.D. Ga. 1989).

Court denies defendants' motions for summary judgment, concluding that plaintiff nurse-midwife had introduced sufficient evidence of conspiracy, harm to competition, and affect on interstate commerce to permit case to proceed to trial.

*Volm v. Legacy Health Sys.*, 237 F. Supp. 2d 1166 (D. Or., 2002).

Court grants defendant's motion for summary judgment against a lactation consultant who was told she could no longer see patients on defendant's properties because the relevant market is all the hospitals in the city, not just the ones in defendant's healthcare system.

## BIBLIOGRAPHY

### GENERAL

Articles in *Quickening*, a bimonthly publication of ACNM (<http://www.quickening.org/>):

Legal Implications of Integrated Networks (Sep/Oct 1995)  
 How to Avoid Antitrust Violations (Nov/Dec 1995)  
 Antitrust Implications of Collective Activity Between and Among CNMs:  
 Parts II and III (Jul/Aug & Sep/Oct 1996)

*Antitrust Law and Economics in a Nutshell* (August 30, 2004)  
 Ernest Gelhorn, William E. Kovacic, Stephen Calkins

*Antitrust Health Care Handbook* (3<sup>rd</sup> edition, 2004)  
 American Bar Association

*Physician-Operated Networks and the New Antitrust Guidelines* (January 30, 1997)  
 New England Journal of Medicine  
 Robert Kuttner

General discussion of the *Maricopa* case and the reasons for antitrust regulation.

*The Medical Monopoly: Protecting Consumers or Limiting Competition?* (Dec. 15, 1995)  
 Policy Analysis (CATO Institute), volume 246  
 Sue A. Blevins

Discussion of the reasons for and results of restrictive licensure laws. Significant discussion of the restriction of practice by midwives and nurse practitioners.

*Hospital Privileges for Nurse-Midwives: An Examination Under Antitrust Law* (1984)  
 American University Law Review, Vol. 33:959  
 Brenda J. Glaser-Abrams

Helpful overview and discussion of relevant, but older cases.

### FEDERAL ENFORCEMENT OF ANTITRUST LAWS

*Improving Healthcare: A Dose of Competition*, U.S. Department of Justice and Federal Trade Commission (July, 2004) [http://www.usdoj.gov/atr/public/health\\_care/204694.htm](http://www.usdoj.gov/atr/public/health_care/204694.htm)

Based on joint hearings, workshops, and independent research, this report includes the Agencies' findings, recommendations and observations regarding physicians, hospitals, insurance, pharmaceuticals, certificate of need, state action, long-term care, international perspectives and remedies.

*Promoting Competition, Protecting Consumers: A Plain English Guide to Antitrust Law*, Federal Trade Commission (July 1998) <http://www.ftc.gov/bc/compguide/index.htm>.

Clear explanation of the basics of antitrust laws, what they are, how they work, and common questions and answers laypeople have regarding the field.

*Statements of Antitrust Enforcement Policy in Health Care*, U.S. Department of Justice and Federal Trade Commission (August 1996).

Policy statements, including description of safety zones, regarding mergers among hospitals, hospital joint ventures, collective provision of information by providers to consumers, exchanges of price and cost information, joint purchasing arrangements among providers, physician network joint ventures, and multi-provider networks. These guidelines reflect and promote the continued emergence of innovative health care arrangements that meet consumer demand for cost-effective, high-quality services. The statements make clear that physician and other provider network joint ventures *may* be pro-competitive and expand consumer choice. The document includes hypothetical examples of how antitrust law applies to different types of PHOs and integrated networks. The statements define circumstances in which the government will *not* challenge certain conduct in the health care industry. These are known as “safety zones.” A copy of the policy statements can be obtained from the FTC or the DOJ or at their websites (see contact information above).

## **RELEVANT FEDERAL LAWS**

Sherman Antitrust Act (15 USC § 1-7 *et seq.*)

Primary federal statute governing antitrust law.

Clayton Act (15 USC § 12-27)

Federal Trade Commission Act (15 USC § 45)

## APPENDIX A

### FEDERAL TRADE COMMISSION REGIONAL OFFICES RECOMMENDED CONTACTS FOR COMPETITION MATTERS

#### **New York Regional Office**

Federal Trade Commission  
150 William Street – Suite 1300  
New York, NY 10038

**Business: 212-264-1207**

**Fax: 212-264-0459**

#### **Cleveland Regional Office**

Federal Trade Commission  
1111 Superior Avenue – Suite 200  
Cleveland, OH 44114-2507

**Complaint: 216-263-3426**

**Fax: 216-263-3426**

#### **San Francisco Regional Office**

Federal Trade Commission  
902 Market Street – Suite 570  
San Francisco, CA 94103

**Business: 415-356-5270**

**Fax: 415-356-5284**

#### **Seattle Regional Office**

Federal Trade Commission  
2896 Federal Building  
915 Second Avenue  
Seattle, WA 98174

**Business: 206-220-6350**

**Fax: 206-220-6366**

## APPENDIX B

### STATE ANTITRUST CONTACTS

#### **Alabama**

Deanna L. Fults  
Assistant Attorney General  
Office of the Attorney General  
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State House  
11 S. Union Street  
Montgomery, AL 36130  
Tel: 334-353-5344  
Fax: 334-242-2433

#### **Alaska**

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Tel: 907-269-5230  
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#### **District Of Columbia**

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## APPENDIX C

### GLOSSARY OF TERMS

*Amicus brief* – (Latin: friend of the court) – A legal brief filed with the court in support of a suit brought by another party.

*Appellate court* – A court hearing appeals, as distinguished from a trial court or a court of original jurisdiction.

*Consent order/decre*e – A court order entered by agreement between a government plaintiff and a defendant requiring the defendant to cease specified activities, without a judicial finding of a violation. Upon approval of such agreement and issuance of the consent order, the government's action against the defendant is dropped.

*Defendant* – The person defending a case or denying allegations; the party against whom relief or recovery of damages is sought in a legal action or suit; the accused in a criminal case.

*Injunction* – An order from a court forbidding or requiring some action by the defendant.

*Plaintiff* – Person who brings an action (a lawsuit).

*Remanded* – Ordered back to the court of original jurisdiction for further action.

*Summary judgment* – When a court or judge rules on the basis of motions and submitted evidence, without a full trial.