

February 6, 2010

#C9338

Roberta S. Baruch  
Bureau of Competition  
Federal Trade Commission  
600 Pennsylvania Ave.  
Washington, D.C. 20580

Dear Ms. Baruch,

This letter is being written regarding the sale of The Center of Surgical Excellence LLC in Roanoke, Va. to Fairlawn LLC, a nephrology group. Docket number C- 9338.

I am a physician in private practice in Roanoke. I applauded the FTC decision to rescind Carilion's acquisition of the CSE surgical center last fall.

Carilion is a powerful monopolistic force in the Roanoke Valley and it is good that we have the FTC to help ensure a level playing field for all physicians and citizens in the Valley.

I am concerned that the proposed sale of the center to Fairlawn, LLC is a feint which Carilion hopes that the FTC accepts.

The fact is, Fairlawn, LLC is not a surgical group. They have no surgeons and have no agreement with any surgeons to actually staff the center. I believe Carilion hopes that Fairlawn is a weak competitor and will not have a successful facility.

Why would Carilion sell a surgery center to a group of kidney doctors? Fairlawn has no surgeons and have no agreement with any surgeons to actually perform surgery at the center. They have only a group of nephrologists to own the center. They have dialysis centers elsewhere. How are they going to recruit the surgeons to actually come and perform procedures at the center? They cannot offer financial incentives due to the Stark law restrictions. No one is lined up to actually do any surgery at the center. Any surgeon who shows up to work will face the wrath of the referral source (Carilion) and unless he is a part owner of the center, he has no incentive to stray from the hospital, Fairlawn has one nephrologist who performs vascular access at another facility, and they have a single gastroenterologist there currently, but I understand he may not stay. They have no one else!! This is a very weak business model and one which falls short of the FTC desire to have a viable surgery center which can compete with Carilion. My patients pay many times the rate offered at the Center currently for procedures when they have them done at Carilion facilities.

Many others have expressed a desire to purchase the center from Carilion, but have been rebuffed and have not been allowed to bid openly or competitively. Other entities who have had viable plans were not allowed to discuss purchase with Carilion.

I object to the Sale because it is a "sweetheart deal". This is not a surprise to me because I have seen Carilion in action and they believe they are pulling one over on you. This is entirely in keeping with their past actions. If the FTC is going to have a meaningful impact on the nature of competition in the Roanoke Valley, I implore you to stop this sale, open the bidding process and allow viable competitors to participate.

Signed,  
A Physician Group in Roanoke

Dear Ms. Baruch,

You may reach us at