



May 18, 2011

Federal Trade Commission, Office of the Secretary, Room H-113 (Annex W)  
600 Pennsylvania Avenue, NW.  
Washington, DC 20580

RE: Proposed Statement of Antitrust Enforcement Policy Regarding ACOs Participating in the Medicare Shared Savings Program, Matter V100017

Dear FTC Secretary:

The Massachusetts Coalition of Nurse Practitioners (MCNP) wishes to testify to the April 19, 2011 notice of your proposed statement of Antitrust Enforcement Policy Regarding ACOs Participating in the Medicare Shared Savings Program. Federal Register/Vol. 76, No. 75/ Tuesday, April 19, 2011/ Notices, pp. 21894-21902.

Over the years, there has been significant media and literature coverage of the cost and quality benefits of allowing advance practice nurses to practice to the full extent of their education, training and state scope of practice. As a result of the 2006 landmark universal health care coverage and ongoing shortage of primary care physicians here in Massachusetts, the Legislature enacted a new chapter in the general laws codifying the nurse practitioner's long-standing function and role as a primary care provider, as part of the second omnibus health care reform measure adopted in Massachusetts, Chapter 305 of the Acts of 2008.. (See enclosed, "Consumer Choice of Nurse Practitioners at Chapter 176R of Mass. Gen. Laws) In many states, NPs enjoy independent practice and are listed in provider networks as primary care providers that beneficiaries may choose to see.

This January, the National Committee for Quality Assurance, (NCQA) revised and adopted new standards for primary care practice recognition as a patient centered medical home. These national standards now refer to "clinicians" rather than solely "physicians" in acknowledgement that NPs may be the clinician who leads the team in providing 21<sup>st</sup> Century primary care services through this model.

In Massachusetts, our understanding is the patient centered medical home will serve as the cornerstone of Accountable Care Organization (ACO) development and MCNP has been intimately involved in our patient centered medical home pilot demonstration.

Therefore, we respectfully request that the FTC's proposed statement in

**IV. The Agencies' Antitrust Analysis of ACOs That Meet CMS Eligibility Criteria,**  
**C. ACOs Below the 50 Percent Mandatory Review Threshold and Outside the Safety Zone**  
**provision of guidance on page 21898, column 3, subsection 3., replace the phrase “primary**  
**care physicians” with, “primary care clinicians”.** Those clinicians who are authorized by  
state practice acts to serve as primary care providers ought to be regarded similarly with respect  
to the proposed antitrust statement exception for primary care physicians, who would not be  
allowed to contract outside the ACO, either individually or through other ACOs or provider  
networks. Furthermore, any provision adopted with regard to primary care physicians in your  
statement ought to regard and categorize uniformly those primary care clinicians performing the  
same services, especially from a market competition standpoint. MCNP requests that you  
consistently use provider neutral language in your final statement. Please confirm for MCNP  
that this suggestion will be adopted in the proposed rule. In advance, we appreciate your  
support.

Best Regards,

Nancy O'Rourke, MS, APRN, BC

President

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