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Edith Ramirez
 Chairwoman
 Federal Trade Commission
 600 Pennsylvania Ave. NW
 Washington, DC 20580

Re: Comment on Health Care Competition

Dear Chairwoman Ramirez:

I am pleased to submit these comments on behalf of the American Society of Clinical Oncology (ASCO) in response to the opportunity for comment published in the Federal Register on February 24, 2014 (79 Federal Register 10153, Feb. 24, 2014). ASCO is the national organization representing nearly 35,000 physicians and other healthcare professionals specializing in cancer treatment, diagnosis and prevention. ASCO members are dedicated to conducting research that leads to improved patient outcomes, and we are committed to ensuring that evidence-based practices for the prevention, diagnosis and treatment of cancer are available to all Americans.

The Federal Trade Commission can play an important role in helping to transform our health care system and ensuring that individuals with cancer can access high quality, high value health care services. Cancer care is complex, and the most appropriate treatment for individual patients varies by the type of cancer (cancer is composed of over 100 different diseases), the stage of the cancer, the existence of co-morbidities and the preferences of the patient. Our scientific knowledge regarding the treatment of cancer is growing rapidly, providing new opportunities to improve patient outcomes.

As a result of the complicated and fluid environment involving cancer care, it is imperative that consumers, policymakers and health care providers have access to meaningful information regarding the quality of care, the cost of care (affordability) and the coverage provided by health insurers. Transparency in all three areas – quality, cost and coverage – is critically important. At the same time, policymakers must resist the urge to promote oversimplified measures or descriptions of quality, cost and coverage. Ignoring important details or presenting information without context is not beneficial in promoting the interests of consumers.

Please find below specific comments responding to the issues raised by the FTC in its recent notice.

Professional Regulation of Health Care Providers

In the recent notice, the FTC requested information on a wide range of issues involving professional regulation. The issues raised by the FTC include the following questions:

- What recent developments have occurred in the regulation of health care professionals, particularly with respect to accreditation, credentialing, licensure, and supervision/cooperation requirements?
- Is there evidence that quality of care is improved when professional regulations are narrowly tailored to protect patient safety while facilitating greater deployment of non-physician or non-dentist health care professionals?
- How do current regulations concerning licensure and credentialing affect the ability of health care professionals to relocate or practice in more than one geographic area, particularly across state lines?
- Would greater state-to-state licensure portability improve competition?

Professional regulation of health care providers is an important factor in the extent to which professionals collaborate in interdisciplinary care teams. High quality oncology care relies on a variety of health care professionals bringing a wealth of expertise to the patient throughout the continuum of care. This includes collaboration across medical specialties – primary care, surgery, radiation oncology, medical oncology, palliative care, and hospice – that are relevant to the experience of the person with cancer. It also includes collaboration among health care providers within each setting. The team-based model has been essential in oncology since the beginning of the specialty.

In many settings, high quality oncology patient care involves advanced practice nurses (nurse practitioners, now doctors of nursing and clinical nurse specialists), physician assistants, clinical pharmacists, registered nurses (including oncology certified nurses), dietitians, genetics counselors, research administrators/coordinators, rehabilitation and psycho-social therapists, social workers, medical assistants, and oncologists. These providers work in a team-based model that relies on appropriate training and expertise to facilitate a patient-centered approach. Oncologists have confidence in the unique skill sets and knowledge of their colleagues to ensure an approach that treats the patient's comprehensive needs. Regulations that enable all health care providers to practice to the full extent of their education and training facilitate timely, high quality, and efficient delivery of care. As the complexity of oncology care increases so does the importance of providers working together to ensure consideration and integration of all aspects of care for the patient.

If the FTC and state regulatory agencies and boards focus solely on competition and independent practice, they may miss the importance of collaboration within a multi-disciplinary health care team and coordination of care across the continuum. Regulators should focus on promoting access to trained professionals within the capacity of their skills, training, and expertise to deliver patient-centered care. A care setting that promotes the team model of care is correlated with professional and patient satisfaction, which also helps foster a culture that protects accountability, focuses on patient safety, ensures quality care, and provides useful information to consumers.

Accreditation, credentialing and certification promote competition and transparency in important ways that benefit consumers who have cancer or are at risk for cancer. In addition, health

professionals value the role of accreditation, credentialing, and certification as a way to demonstrate specialized knowledge. Although these distinctions are not required, as licensure is, professional governing bodies develop them. Payers, institutions, and provider networks increasingly require acquisition and maintenance of these distinctions.

State-based licensure requirements restrict the ability of providers to practice across state lines, but innovative approaches to provide specialty care to less populous areas may include concepts like telemedicine. Specialty care clinics generally require greater population density than primary care practice because of the lower incidence of the diseases treated. The Veterans Health Administration maintains over 1,700 sites of care across the U.S. In addition to these care delivery sites, the VHA has developed telemedicine applications that enable care in remote areas. The advantage of the VA system is its ability to work across state boundaries to devise effective and efficient ways to deliver care. Although state professional boards are working to promote interstate compacts that enable health care professionals licensed by one state to serve consumers in other state, speeding up the process of establishing such interstate compacts would benefit consumers and enable increased innovation.

Finally, the Commission should also consider how insurance documentation requirements, particularly in the Medicare program, hinder efficient delivery of care and place a focus on procedure-based care. Instead, increased efficiency and innovative care team models will be facilitated by a move to value- and outcome-based payment models. ASCO is working to develop these models and is eager to work with the Administration to pilot test the impact.

Advances in Health Care Technology

The FTC requested information on a wide range of issues regarding advances in health care technology. The issues raised by the FTC include the following questions:

- Do innovators in health information technology face barriers to entry? If so, are these barriers significant impediments to competition? How might these barriers be reduced?
- Are there significant impediments to the useful flow of patient health information to improve health care coordination and quality?
- Do recent health care technology advancements raise standard-setting, network effects, or interoperability issues?
- Are there other factors that should be considered when analyzing the competitive implications of emerging health care technologies?

Health information technology (HIT) is an important tool for transforming the practice of oncology. HIT systems can help further initiatives that improve the coordination and quality of care provided to cancer patients. Today more than 75 percent of oncology providers are using electronic health records at a “basic” or “advanced” level.¹ Many of the most promising innovative models for reforming oncology care rely in part on sophisticated HIT systems and the coordination and information sharing they facilitate, including the oncology medical home model.

¹ American Society of Clinical Oncology. The State of Cancer Care in America 2014. Page 37 (2014) available at http://www.asco.org/sites/www.asco.org/files/cancerinamerica2014-lowres_1.pdf.

There are a number of challenges facing the oncology community in taking full advantage of HIT systems, including the following:

- The acquisition and maintenance of HIT systems is costly. Oncology practices often expend significant resources to acquire these systems, but the costs do not end with the initial purchase. Despite the opportunities for HIT infrastructure to improve the delivery of oncology care, oncology practices often note that transition to new HIT systems can represent significant challenges, including reduced productivity and major costs. These challenges are compounded by the fact that oncology practitioners are struggling to operate under a growing number of additional administrative and regulatory burdens imposed by the health care system.
- Despite widespread adoption of electronic health records, oncology providers continue to face challenges with inadequacies within the commercially-available HIT products. These products often lack interoperability with other systems and poorly integrate important oncology-specific functionality across practice settings. Modern oncology practices have unique data requirements that require HIT systems that support chemotherapy dosing and administration, clinical trial and protocol management, tumor staging and nomenclature, toxicity assessment and management and survivorship care.
- Reducing the costs and challenges associated with interoperability and operating HIT systems can increase competition and promote access to high value health care and may increase the ability of smaller, independent practices to use valuable HIT tools. Independent cancer practices provide vital access points within communities for oncology care and that community-based oncology practices provide one of the most cost-effective settings for cancer care. Enhancing access to HIT systems will facilitate data sharing, enable greater access to clinical information and help improve the overall quality of care provided to patients.

In light of these concerns, we urge the FTC to work with all stakeholders – including state and federal officials, the HIT community and the oncology community – to remove unnecessary administrative and regulatory barriers placed on oncology practices by the health care system and to promote cost-effective HIT solutions that fully meet the needs of the oncology community.

Although the use of HIT systems presents challenges, the potential opportunities are significant. One promising initiative is using “big data” solutions to help practicing physicians distill massive volumes of data into meaningful information that supports the delivery of high quality, high value care at the bedside. The volume of scientific and clinical information in the field of oncology is increasing at an unprecedented rate, especially with the increased availability of genomic sequencing to help target the optimal therapy to the most appropriate patients. ASCO has launched and successfully run an initial pilot test of CancerLinQ, a multi-year initiative to achieve this ambitious goal.

In light of these challenges and opportunities, we urge policymakers to promote approaches that minimize the administrative, regulatory and financial barriers to the innovation and adoption of HIT systems as well as the sharing of clinical and research data among providers. A priority should be placed on promoting interoperability and the availability of HIT systems that meet the specific needs

of oncology providers and their patients.

Measuring and Assessing the Quality of Health Care

The FTC requested information on various issues regarding advances the measurement and assessment of the quality of health care. The issues raised by the FTC include the following questions:

- How is health care quality measured and evaluated, and for what purposes? Are these current measures effective?
- Have there been any recent innovations in quality measurement?
- What challenges are encountered when measuring quality?
- How is quality information shared with various health care decisionmakers, including patients, providers, employers, and payers? Are there better ways to convey such information?
- Is a standard measure likely to emerge that would allow patients, providers, and other health care decision-makers to effectively compare providers based on quality?

Ensuring and improving the level of care provided to health care consumers requires a significant commitment to quality measurement and improvement. Consumers benefit from robust quality measurement and assessment because it drives adherence to evidence based guidelines, which improves outcomes and value and can lower consumer costs. Comprehensive quality improvement programs should contain robust sets of quality measures that have significant relationships to a specialized area of care. For example, without measures that adequately capture the field of oncology practice, meaningful quality improvement and cost control will remain elusive goals in cancer care.

Cancer is comprised of more than 100 diseases, and it is important for a mature quality improvement system to rely on detailed disease-specific measures to promote meaningful improvements in the quality of cancer care. ASCO has been actively working on quality improvement initiatives for well over a decade. The Quality Oncology Practice Initiative (QOPI) is a national, data-driven quality improvement program containing over 150 evidence-based oncology specific quality measures. QOPI is easily adaptable to new clinical and scientific discoveries because ASCO can develop and test new measures within six months of a research breakthrough. This assures a clear and direct link to improved patient outcomes, quality and value in cancer care that are timely and clinically relevant.

Another promising approach to drive quality improvement in the practice of oncology is the use of “big data” solutions to help practicing physicians distill massive volumes of data into meaningful information supporting the delivery of high quality, high value care. The ASCO CancerLinQ initiative is focused on building a “learning health system” comprised of a knowledge generating computer network that will collect and analyze cancer care data from millions of patient visits and expert guidelines. This knowledge will be fed back to providers at the point of care to help inform clinical decision making. The information obtained through CancerLinQ in the future will play a key role in achieving improved health outcomes for cancer patients and more affordable care.

For the reasons discussed above, we urge policymakers to promote competition based on the quality and value of oncology care available to consumers who have cancer or who are at risk for developing cancer. This requires that practitioners, consumers and their advocates have meaningful access to HIT tools that provide the level of detail and rigor necessary to evaluate quality and value in complex areas of health care, such as oncology.

Price Transparency

The FTC also requested information on various issues regarding price transparency, including the following questions:

- To what extent might price transparency enhance competition among health care providers or between different treatments?
- What is the relationship between transparency of price and quality information? Is price information more meaningful to patients, providers, and other health care decision-makers when combined with quality information? Do pricing data alone provide sufficient information to enable meaningful health care decisions?
- Are there other factors that should be considered when analyzing the competitive implications of price transparency in the health care industry?

ASCO supports transparency in health care and has committed considerable resources to developing tools to enhance shared decision-making and open conversations between oncologists and their patients about cost and value. We have developed tools to help providers and patients discuss the difficult issues related to the cost of care. We support efforts to promote transparency and collaboration in tackling the complex issues involving the cost of health care services.

Along with the price transparency, it is vitally important that consumers and their advocates have detailed information regarding the scope of coverage provided by various health care insurers. This is particularly important for oncology and other life-threatening conditions in which the needs of particular patients are difficult to anticipate. The lack of granularity and transparency in the scope of benefits provided to consumers by insurers remains a major failing in our health care system. Consumers, human resources directors and policymakers often must still select among health insurance products with only cursory descriptions of the oncology services provided.

As pursuing its mission to protect American consumers, we urge the FTC to help ensure that meaningful and detailed information regarding the scope of covered benefits is available for consumers and their advocates. The status quo is simply unacceptable. In 2014, consumers are too often left with inadequate information to understand the full scope of coverage that a health insurer provides in the area of oncology. It is not meaningful to discuss price transparency and price comparisons in health care without detailed and meaningful information regarding the scope of cancer benefits covered under competing insurance plans.

A recent event involving Medicare underscores another important point regarding price transparency. The Centers for Medicare & Medicaid Services recently released Medicare's payment data for individual physicians. The data released by CMS contains egregious inaccuracies. Further, the

information posted by CMS is not put into meaningful context.

When payment and pricing information is shared without important contextual information, it has the ability to mislead consumers in the decisions they make regarding their health care. To promote the interests of consumers, errors and problems with pricing and payment data should be fully addressed before publication. In the case of provider data, this problem could be addressed in part by opportunities for providers to review, comment and recommend changes in the data prior to publication. In addition, pricing and payment information is inherently complicated, and significant efforts should be made to provide context for consumers and advocates.

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Thank you for the opportunity to comment on these important issues. ASCO would be pleased to serve as a resource to the FTC in the future on issues involving oncology care and the needs of consumers in the areas of quality measurement, pricing and coverage. If you have any questions in the future, please do not hesitate to contact Shelagh Foster at Shelagh.foster@asco.org or 571-483-1612.

Sincerely,

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Clifford A. Hudis, MD, FACP
President
American Society of Clinical Oncology