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Federal Trade Commission
Office of the Secretary
Room H-113 (Annex X)
601 New Jersey Avenue, NW
Washington, DC 20580

To Whom It May Concern:

The Pacific Business Group on Health (PBGH) is pleased to respond to your request for comments on “Examining Health Care Competition” (Project No. P13-1207). PBGH is one of the nation's leading non-profit business coalitions focused on health care. PBGH works on many fronts to improve the quality and affordability of health care, often in close partnership with health insurance plans, physician groups, hospital systems, and consumer organizations. We leverage the power of our 50 large purchaser members representing a wide range of industries who spend 12 billion dollars annually in California to provide health care coverage to more than 3 million employees, retirees and dependents.

We believe that innovations in new models of care have significant potential to improve health outcomes and affordability through the redesign of the health care delivery system, promotion of provider accountability and acceleration of payment reform. Thus, we strongly support their development and want them to succeed. However, care must be taken to not exacerbate an already serious problem of providers having a disproportionate share of market power in many areas of the country. In particular, accountable care organizations (ACOs) and other models with clinical integration could garner market power that enables them to increase prices for the private sector. A portion of increased prices is also due to the cost-shift from Medicare, Medicaid and uninsured patients. Private purchasers absorb some of the price increases by paying more for health insurance, and some increases get passed on to consumers in the form of higher premiums and co-payments. In some instances, health plan benefits are scaled back to make them more affordable.

There is evidence this has been occurring for some time; many markets have experienced increased prices after hospital consolidation.^{1,2} Additionally, some studies estimate cost-shifting

¹ RA Berenson, PB Ginsburg, N Kemper. Unchecked Provider Clout In California Foreshadows Challenges To Health Reform. *Health Affairs*, 29, no.4 (2010):699-705 Feb 2010.

² CH Williams, WB Vogt, R Town. How has hospital consolidation affected the price and quality of hospital care? Princeton (NJ): Robert Wood Johnson Foundation; 2006 Feb.

from Medicare to private payers can be as high as 40%.^{3,4,5} Here in California, premiums in the northern part of the state run 25-30% higher than in the south, primarily because providers are more heavily consolidated in the north. Recent trends in hospital consolidation and purchasing of physician practices further heighten our concern that this will continue in the current environment.

Once they have gained sufficient market power, the consolidated providers impose conditions on the insurers with whom they contract that restrict competition and prevent transparency. They become “must-have” providers due to their prominence in the communities they serve, require the insurance carrier to agree to include all facilities under their control in their networks regardless of cost or quality, develop list prices that force the carriers to pay a huge premium for members who use them if they are not included in the network, and include contract provisions that prohibit the carrier from revealing price – and sometimes even quality – information to the public. This situation is likely to continue as long as the providers maintain their leverage with the carriers.

We need to make sure there are effective rules in place guided by a set of principles that support robust competition in health care. We also believe that evidence needs to be gathered so that practical, real-time decisions can be made regarding the efficacy of the ACO approach. In the current environment, growing market concentration issues are not addressed before the occurrence of significant harm. Below we offer principles and recommendations to address problems with health care competition:

1. All Americans should have access to high-quality, affordable health care. We must make sure that our payment policies incent better quality and affordable care for all Americans, not just those covered by public programs such as Medicare and Medicaid.

3. Competition is important – empirically data suggest that competition helps keep down prices and drives innovation. There should be a system for ongoing and proactive monitoring of the potential consequences of increased market power (i.e., increased prices for the private sector and cost-shifting). The development of benchmarks and an all payer data base would support this.

2. Concerns about market power can be addressed through market-based solutions, but government intervention will also be important. Given that we are still learning how best to implement payment reforms, it will be important that the public and private sector experiment with multiple approaches before regulations dictate policies that may or may not be beneficial or achieve the intended goals. As we learn more, there may be specific regulations that we need to help assure access to high-quality and affordable care through ACOs and other new models of

³ W Fox & J Pickering. Cost Efficiency at Hospital Facilities in California: A Report Based on Publicly Available Data. Millman. Oct 2007.

⁴ Analysis of Hospital Cost Shift in Arizona. The Lewin Group. March 2009.

⁵ Health Care Trends in America. BlueCross BlueShield Association. 2009 Edition.

care. In addition, legislation or regulation may be needed to ensure transparency and prohibit anti-competitive practices.

4. ACO implementation must be carefully and rapidly evaluated with multi-stakeholder input. All payment innovations should be tested against a common set of objectives and corresponding metrics – to contain cost growth, improve patient outcomes and assure access to needed care. Methodologies could include benchmarking against a handful of well-run programs.

5. Quality and price transparency is a critical part of reforming the health care system. Consumers need information on quality and price to support decisions about their health care – such as selecting a good doctor or treatment, or comparing the relative price of different providers. Purchasers also need this information to support value-based purchasing. Additionally, public disclosure of the relative quality and cost of providers drives improvements more rapidly than private reporting.

We appreciate your consideration of our suggestions. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,

David J. Lansky, PhD
President & CEO