TOPIC AND YEARLY INDICES OF HEALTH CARE ANTITRUST ADVISORY OPINIONS BY COMMISSION AND BY STAFF

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HEALTH CARE ANTITRUST ADVISORY OPINIONS
BY COMMISSION AND BY STAFF

I. INTRODUCTION

The Federal Trade Commission will respond to requests for advice from health care providers and others through its advisory opinion process. On September 27, 1994, the Federal Trade Commission and the Department of Justice jointly issued nine statements of antitrust enforcement policies and analytical principles regarding mergers and various joint activities in the health care area. In response to changes in the health care market, on August 28, 1996, the agencies issued revisions to statements eight and nine concerning physician network joint ventures and multi-provider networks.

Under the statements, the Commission has committed to responding within 90 days to requests for advice from health care plans or providers about matters addressed by the “safety zones” or the non-merger policy statements; and within 120 days to requests for advice regarding multiprovider networks and other non-merger health care matters. The response period will commence once all necessary information has been received by the Commission.

In the mid-1970's, the FTC formed a division within the Bureau of Competition to investigate potential antitrust violations involving health care. The Health Care Division consists of approximately 40 lawyers and investigators who work exclusively on health care antitrust matters. The Commission and its health care staff have responded to numerous requests for guidance from health care industry participants through, among other things, the advisory opinion letter process. Those advisory opinions are listed below by topic and by year. Section II contains a list of advisory opinions by topic. Some advisory opinions are listed in more than one category because they discuss several issues. A yearly index follows this topic index in Section III. Commission advisory opinions are indicated by an asterisk (*); other opinions are staff advisory opinions. The indices, advisory opinions, and other information relating to the Commission’s advisory opinion program are available at the FTC’s website at https://www.ftc.gov/tips-advice/competition-guidance/industry-guidance/health-care (for the advisory opinions, look under the “Advisory Opinion” drop down menu and “View More

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1 This summary has been prepared by the FTC Health Care Division staff, and has not been reviewed or approved by the Commission or the Bureau of Competition.
2 Actions involving health care services and products are contained in a separate document, Overview of FTC Actions in Health Care Services and Products. Actions involving pharmaceutical products and distribution are contained in the Overview of FTC Actions in Pharmaceutical Products and Distribution. Both documents are available on the FTC’s website at https://www.ftc.gov/tips-advice/competition-guidance/industry-guidance/health-care.
Advisory Opinions”). For additional information concerning the advisory opinion program, contact Robert Canterman at (202) 326-2701.

II. TOPIC INDEX OF HEALTH CARE ANTITRUST ADVISORY OPINIONS BY COMMISSION AND BY STAFF

A. Network Joint Ventures

1. Physician Network Joint Ventures


MedSouth Inc. To John J. Miles; June 18, 2007. (Follow-up to MedSouth, Inc. staff advisory opinion dated February 9, 2002 (see below) concerning the program’s clinical integration activities, efficiencies, and market power) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/medsouth-inc./070618medsouth.pdf).


California Managed Imaging Medical Group, Inc. To J. Bert Morgan, Esq.; November 17, 1993. (Proposal by a radiologist-owned PPO network to provide professional radiology services to payers on a regional or statewide basis. The letter discusses fee-setting, market power, and limitation of provider panel) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-morgan-11-17-93).

Maryland Medical Eye Associates. To Charles E. Rosolio; May 15, 1987. (Formation, marketing, and operation of a partially integrated professional organization, owned by nine
ophthalmologists who are in five separate medical practices, to offer services to HMOs and other
groups on a capitation and fee schedule basis)
(https://www.ftc.gov/sites/default/files/documents/advisory-opinions/maryland-medical-eye-
associates/16.pdf).

Pacific International Health, Inc. To Richard C. Greenberg, Esq.; August 28, 1986. (Formation
and operation of a provider-controlled PPO; price agreements to be between individual
participating physicians and each payer)
(https://www.ftc.gov/sites/default/files/documents/advisory-opinions/pacific-international-
health-inc./18.pdf).

(Proposal by physician-owned IPA/HMO with most of the local physicians as participants to
close off access to plan to additional physicians) (https://www.ftc.gov/policy/advisory-
opinions/kitsap-physicians-service).

HMO/IPA. To Gilbert M. Frimet, Esq.; March 22, 1984. (Use by IPA of fee schedule to allocate
capitation payment among participating physicians. The proposal would require exclusive
dealing by IPA members with the IPA)

2. Hospital/Physician Network Joint Ventures

(Multiprovider network joint venture that seeks to create a “clinically integrated” network and
engage in joint contracting with third party payers)
(https://www.ftc.gov/sites/default/files/documents/advisory-opinions/norman-physician-hospital-
organization/130213normanphoadvltr_0.pdf).

Tristate Health Partners, Inc. To Christi J. Braun; April 13, 2009. (Proposal by a physician-
hospital organization to clinically integrate its members’ provision of health care services, and to
contract jointly with health plans and other payers on a fee-for-service basis on behalf of its
members to provide services to plan beneficiaries)
(https://www.ftc.gov/sites/default/files/documents/advisory-opinions/tristate-health-partners-
inc./090413tristateaoletter.pdf).

Suburban Health Organization, Inc. To Clifton E. Johnson, Esq. and William H. Thompson,
Esq.; March 28, 2006. (Proposed plan by PHO to be the exclusive bargaining and contracting
agent with health plans for the primary care physicians employed at the PHO’s eight member
hospitals) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/suburban-health-
organization/suburbanhealthorganizationstaffadvisoryopinion03282006.pdf).

IPA Sponsored PPO. To Martin J. Thompson; June 20, 1991. (IPA network’s sponsorship of a
PPO to negotiate prices with hospitals whose services will be marketed as part of the PPO)

Pan American Management Associates. To Robert P. Macina, Esq.; June 27, 1989. (Creation of
a limited partnership between hospital and physicians to establish a PPO. The physicians would


3. **Hospital Network Joint Ventures**

**Mayo Medical Laboratories.** To George A. Cumming, Jr., Esq.; July 17, 1996. (State or regional networks of hospital laboratories providing outpatient laboratory services organized to compete for payer contracts) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-cumming-07-17-96).

4. **Other Provider Network Joint Ventures**


**Alliance of Independent Medical Services, LLC.** To Timothy C. Cashmore; December 22, 1997. (Network of ambulance and ambulette services providers formed to contract for transportation services with third party payers) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-cashmore-12-22-97).


5. Other Joint Bidding


B. Joint Purchasing Arrangements

1. Joint Purchasing by Health Care Providers

Elmore Community Hospital, Inc. To Derrell O. Fancher; June 20, 1995. (Joint venture between two acute care hospitals for the purchase of certain personnel and other services) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-fancher-06-20-95).


2. Joint Purchasing by Payers

**The Equitable Life Assurance Society.** To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/equitable-life-assurance-society/19.pdf).


C. Other Joint Ventures

1. Hospital Joint Ventures


2. Insurer/Third-Party Payer PPOs


   **The Equitable Life Assurance Society.** To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/equitable-life-assurance-society/19.pdf).


*Health Care Management Associates, 101 F.T.C. 1014 (1983). To Irwin S. Smith, M.D., President; June 7, 1983. (PPO organized by an independent intermediary between physicians and

D. Provider Participation in Exchanges of Price and Cost Information

Rx-360 International Pharmaceutical Supply Chain Consortium. To Joanne Lewers; September 15, 2010 (Proposal regarding the Rx-360 International Pharmaceutical Supply Chain Consortium (“Rx-360") to implement two supplier audit programs, which would permit pharmaceutical manufacturers to: (1) share information about the quality and safety of ingredients purchased from common suppliers; and (2) share the costs of sponsoring quality and safety audits of common suppliers) (https://www.ftc.gov/sites/default/files/documents/advisory_opinions/rx-360-international-pharmaceutical-supply-chain-consortium/100916bloomletter.pdf).


PriMed Physicians. To Gregory G. Binford; February 6, 2003. (Proposal by physicians in Dayton, Ohio, to collect and publish information about third party payers’ policies and procedures, including fees that specific health plans pay to Dayton doctors compared to fees they pay for the same procedures to physicians in other areas, in connection with the formation of an advocacy group to educate the public about issues affecting the Dayton health care market) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-binford-02-06-03).


E. Providers’ Collective Provision of Fee Related Information

1. Relative Value Schedules/Guides


2. Fee Review


3. **Discussions with Payers**

**Medical Society of the County of Erie.** To James F. Phillips, M.D., President; March 12, 1984. (Medical society discussions with third-party payers regarding fee allowances) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/medical-society-county-erie/34.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/medical-society-county-erie/34.pdf)).

**F. Providers’ Collective Provision of Non-fee Related Information**

1. **Standard Setting Programs**

**Foundation for the Accreditation of Hematopoietic Cell Therapy.** To Paul L Yde; April 17, 1997. (Standard-setting and accreditation program for organizations involved in medical or laboratory practice related to hematopoietic progenitor cell therapy) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-yde-04-13-97](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-yde-04-13-97)).


2. **Quality and Utilization Review**

**Academy of Ambulatory Foot Surgery.** To Andrew K. Dolan, Esq.; July 31, 1987. (Professional association assistance to third-party payers in determining when foot surgery may be restricted to outpatient settings)


3. Information Sharing


PriMed Physicians. To Gregory G. Binford; February 6, 2003. (Proposal by physicians in Dayton, Ohio, to collect and publish information about third party payers’ policies and procedures, including fees that specific health plans pay to Dayton doctors compared to fees they pay for the same procedures to physicians in other areas, in connection with the formation of an advocacy group to educate the public about issues affecting the Dayton health care market) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-binford-02-06-03).


G. Professional Society Activities

1. Codes of Ethics

Suffolk County Dental Society. To Steven L. Roberts, DDS, President, and Albert A. Sunshine, DDS, Chairman, Ethics Committee; July 6, 1994. (Legality of "exclusive dental plans"; proposed


2. Other Activities


H. Other Agreements

1. Market Allocation


2. Exclusive Dealing

3. Potential Barriers to New Entry


**Kitsap Physicians Service.** To William G. Kopit, Esq.; May 22, 1984, and March 26, 1984. (Proposal by physician-owned IPA/HMO with most of the local physicians as participants to close off access to plan to additional physicians) ([https://www.ftc.gov/policy/advisory-opinions/kitsap-physicians-service](https://www.ftc.gov/policy/advisory-opinions/kitsap-physicians-service)).

4. Parent-Subsidiary Relationships

**Community Hospital, Inc.** To Darrell O. Fancher; December 22, 1997. (Corporate restructuring of nonprofit hospital corporation) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-fancher-12-22-97](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-fancher-12-22-97)).

5. Patent Infringement Settlement Agreements


6. Sales Agreements Between Health Care Providers


I. Robinson-Patman Act

1. Pharmaceutical Pricing Practices

**Doylestown Health Physicians.** To John B. Reiss, Esq.; September 2, 2021. (Inquiry as to whether Doylestown Health Physicians’ proposal to sell discounted pharmaceuticals and medical devices to its affiliated hospital would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/system/files/documents/advisory_opinions/ftc-staff-advisory-opinion-concerning-discounted-pharmaceuticals-medical-devices-under-non-profit/p213500doylestownadvisoryopinion.pdf](https://www.ftc.gov/system/files/documents/advisory_opinions/ftc-staff-advisory-opinion-concerning-discounted-pharmaceuticals-medical-devices-under-non-profit/p213500doylestownadvisoryopinion.pdf)).
**Crouse Health Hospital.** To Jennifer R. Bolster Esq.; October 20, 2017. (Inquiry as to whether Crouse Health Hospital’s proposal to sell discounted pharmaceutical products to the employees, retirees, and their dependents of its affiliate, Crouse Medical Practice, would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/system/files/documents/advisory_opinions/letter-markus-h-meier-assistant-director-bureau-competition-concerning-crouse-health-hospitals/crouse_finaladvisoryopinionletter_10202017_text_version.pdf](https://www.ftc.gov/system/files/documents/advisory_opinions/letter-markus-h-meier-assistant-director-bureau-competition-concerning-crouse-health-hospitals/crouse_finaladvisoryopinionletter_10202017_text_version.pdf)).

**Quest Analytics Group.** To James L. S. Cobb, Esq.; March 7, 2014. (Inquiry as to whether certain non-profit educational institutions’ purchase of specialty drugs through Quest Analytic Group’s proposed group purchasing organization would fall within the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/system/files/documents/advisory_opinions/quest-analytics-group/140310queststaffadvisoryletter.pdf](https://www.ftc.gov/system/files/documents/advisory_opinions/quest-analytics-group/140310queststaffadvisoryletter.pdf)).

**Yakima Valley Memorial Hospital.** To Robert J. Walerius; August 16, 2010. (Inquiry as to whether Yakima Valley Memorial Hospital’s proposal to sell discounted pharmaceutical products to employees of two of its affiliates would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory_opinions/yakima-valley-memorial-hospital/100819yakimavalleyletter.pdf](https://www.ftc.gov/sites/default/files/documents/advisory_opinions/yakima-valley-memorial-hospital/100819yakimavalleyletter.pdf)).

**Community CarePartners, Inc.** To Vincent D. Childress, Jr.; July 2, 2010. (Inquiry as to whether Community CarePartners’ proposal to extend sales of discounted pharmaceutical products to its in-home hospice patients would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/community-carepartners-inc./100702carepartnersopinion.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/community-carepartners-inc./100702carepartnersopinion.pdf)).

**University of Michigan.** To Kathleen A. Reed; April 9, 2010. (Inquiry as to whether a prescription drug benefit program proposed by the University would fall within the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by …[certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/university-michigan/100409univmichiganopinion.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/university-michigan/100409univmichiganopinion.pdf)).

**St. John’s Health System.** To Michael Merrigan; September 13, 2006. (Provision of pharmaceuticals by St. John's Regional Health Center, a non-profit hospital, to three hospital-owned pharmacy sites, under the Non-Profit Institutions Act) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/st.johns-health-system/060913stjohnsadvisoryopinion.pdf).


**Stevens Hospital.** To Gordon J. Oakes; April 18, 2005. (Sale of pharmaceuticals by non-profit hospital to patients receiving treatment in clinics that are owned by the hospital) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/stevens-hospital-edmonds-washington/050422npialtrpender.pdf).


**Arkansas Children’s Hospital.** To Victoria Bennet; March 13, 2003. (Sale of pharmaceuticals by non-profit children’s hospital to patients seen in clinics that are operated by the University of Arkansas for Medical Sciences on the hospital’s campus) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-bennet-03-13-03).

**Valley Baptist Medical Center.** To Louise M. Joy; March 13, 2003. (Sale of pharmaceuticals by hospital to contracted workers who provide services at the hospital) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-joy-03-13-03).

**Health Access, Inc.** To Stephen D. Keiss; March 8, 2002. (Sale of vaccines by non-profit hospital to affiliated wellness center) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-keiss-03-08-02).


**BJC Health System.** To Gary Senner; November 9, 1999. (Sale of pharmaceuticals by non-profit hospital system to the system’s employees, affiliated managed care program enrollees, and home care subsidiary) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-senner-11-09-99](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-senner-11-09-99)).

**Wesley Health Care Center, Inc.** To David A. Ruffo; April 29, 1999. (Sale of pharmaceuticals by non-profit skilled nursing facility to volunteers working at the facility) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-ruffo-04-29-99](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-ruffo-04-29-99)).


**Henry County Memorial Hospital.** To Clifton E. Johnson, Esq.; April 10, 1997. (Sale of pharmaceuticals by non-profit hospital to patients of the hospital’s PHO) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-johnson-04-10-97](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-johnson-04-10-97)).

**North Ottawa Community Hospital.** To Sheldon Klein, Esq.; October 22, 1996. (Sale of pharmaceuticals by non-profit hospital to unaffiliated, non-profit hospice) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-klein-10-22-96](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-klein-10-22-96)).

**North Mississippi Health Services.** To Bruce J. Toppin, Esq.; October 3, 1996. (Sale of pharmaceuticals by non-profit medical center to retired employees) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-toppin-10-03-96](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-toppin-10-03-96)).

**Valley Baptist Medical Center.** To Daniel L. Wellington, Esq.; September 19, 1996. (Sale of pharmaceuticals by non-profit medical center to medical center operated clinic) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-wellington-09-19-96](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-wellington-09-19-96)).


*Presentation Health System.** To Tamara D. Lee, Esq.; December 21, 1993. (Sale of pharmaceuticals by non-profit hospitals to related non-profit long-term care facilities) ([https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-lee-12-21-93](https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-lee-12-21-93)).

**Unnamed Hospital.** To James D. Miller, Esq.; March 31, 1993. (Dispensing of non-profit hospital’s purchase of drugs to HMO members and to members of a senior citizens' program) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/unnamed-hospital./1.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/unnamed-hospital./1.pdf)).

**Oneida City Hospital.** To Linus W. Walton, Esq., City Attorney; June 1, 1992. (Sale of prescription drugs by a city-operated hospital to city employees at a price reflecting discounts

2. Other Products


J. Failure to File Agreement Required by Medicare Prescription Drug, Improvement, and Modernization Act of 2003


III. YEARLY INDEX OF HEALTH CARE ANTITRUST ADVISORY OPINIONS BY COMMISSION AND BY STAFF

2021 *Doylestown Health Physicians*. To John B. Reiss, Esq.; September 2, 2021. (Inquiry as to whether Doylestown Health Physicians’ proposal to sell discounted pharmaceuticals and medical devices to its affiliated hospital would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”) (https://www.ftc.gov/system/files/documents/advisory_opinions/ftc-staff-advisory-opinion-concerning-discounted-pharmaceuticals-medical-devices-under-non-profit/p213500doylestownadvisoryopinion.pdf).

2017 *Crouse Health Hospital*. To Jennifer R. Bolster Esq.; October 20, 2017. (Inquiry as to whether Crouse Health Hospital’s proposal to sell discounted pharmaceutical products to the employees, retirees, and their dependents of its affiliate, Crouse Medical Practice, would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”) (https://www.ftc.gov/system/files/documents/advisory_opinions/letter-

5 Commission advisory opinions are indicated by an asterisk (*); other opinions are staff advisory opinions.
2014 **Quest Analytics Group.** To James L. S. Cobb, Esq.; March 7, 2014. (Inquiry as to whether certain non-profit educational institutions’ purchase of specialty drugs through Quest Analytic Group’s proposed group purchasing organization would fall within the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/system/files/documents/advisory_opinions/quest-analytics-group/140310queststaffadvisoryletter.pdf](https://www.ftc.gov/system/files/documents/advisory_opinions/quest-analytics-group/140310queststaffadvisoryletter.pdf)).


2010 **Rx-360 International Pharmaceutical Supply Chain Consortium.** To Joanne Lewers; September 15, 2010 (Proposal regarding the Rx-360 International Pharmaceutical Supply Chain Consortium (“Rx-360”) to implement two supplier audit programs, which would permit pharmaceutical manufacturers to: (1) share information about the quality and safety of ingredients purchased from common suppliers; and (2) share the costs of sponsoring quality and safety audits of common suppliers) ([https://www.ftc.gov/sites/default/files/documents/advisory_opinions/rx-360-international-pharmaceutical-supply-chain-consortium/100916bloomletter.pdf](https://www.ftc.gov/sites/default/files/documents/advisory_opinions/rx-360-international-pharmaceutical-supply-chain-consortium/100916bloomletter.pdf)).
**Yakima Valley Memorial Hospital.** To Robert J. Walerius; August 16, 2010. (Inquiry as to whether Yakima Valley Memorial Hospital’s proposal to sell discounted pharmaceutical products to employees of two of its affiliates would fall within the scope of the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory_opinions/yakima-valley-memorial-hospital/100819yakimavalleyletter.pdf](https://www.ftc.gov/sites/default/files/documents/advisory_opinions/yakima-valley-memorial-hospital/100819yakimavalleyletter.pdf)).

**Community CarePartners, Inc.** To Vincent D. Childress, Jr.; July 2, 2010. (Inquiry as to whether Community CarePartners’ proposal to extend sales of discounted pharmaceutical products to its in-home hospice patients would fall within the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/community-carepartners-inc./100702carepartnersopinion.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/community-carepartners-inc./100702carepartnersopinion.pdf)).

**University of Michigan.** To Kathleen A. Reed; April 9, 2010. (Inquiry as to whether a prescription drug benefit program proposed by the University would fall within the Non-Profit Institutions Act, which exempts from the Robinson-Patman Act “purchases of their supplies for their own use by … [certain non-profit institutions, including] hospitals, and charitable institutions not operated for profit.”) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/university-michigan/100409univmichiganopinion.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/university-michigan/100409univmichiganopinion.pdf)).

2009 **Tristate Health Partners, Inc.** To Christi J. Braun; April 13, 2009. (Proposal by a physician-hospital organization to clinically integrate its members’ provision of health care services, and to contract jointly with health plans and other payers on a fee-for-service basis on behalf of its members to provide services to plan beneficiaries) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/tristate-health-partners-inc./090413tristateaoletter.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/tristate-health-partners-inc./090413tristateaoletter.pdf)).


**MedSouth Inc.** To John J. Miles; June 18, 2007. (Follow-up to MedSouth, Inc. staff advisory opinion dated February 9, 2002 (see below) concerning the program’s clinical
integration activities, efficiencies and market power)

2006  *St. John's Health System.* To Michael Merrigan; September 13, 2006. ( Provision of pharmaceuticals by St. John's Regional Health Center, a non-profit hospital, to three hospital-owned pharmacy sites, under the Non-Profit Institutions Act)

*Alpena Public Schools.* To Kathleen A. Reed; June 16, 2006. (Transfer of pharmaceuticals at cost between a non-profit hospital and a non-profit public school system under the Non-Profit Institutions Act)

*Suburban Health Organization, Inc.* To Clifton E. Johnson, Esq. and William H. Thompson, Esq.; March 28, 2006. (Proposed plan by PHO to be the exclusive bargaining and contracting agent with health plans for the primary care physicians employed at the PHO’s eight member hospitals)

2005  *North Mississippi Health Services.* To Bruce J. Toppin; August 16, 2005. (Sale of pharmaceuticals at cost by non-profit hospital to patients of non-profit clinic and hospice under the Non-Profit Institutions Act)

*Stevens Hospital.* To Gordon J. Oakes; April 18, 2005. ( Sale of pharmaceuticals by non-profit hospital to patients receiving treatment in clinics that are owned by the hospital under the Non-Profit Institutions Act)

2004  *Bristol-Myers Squibb Company.* To Richard J. Stark; May 24, 2004. (Proposed settlement of infringement litigation with Teva Pharmaceuticals involving sharing of the exclusivity period for the drug Paraplatin)

*Dunlap Memorial Hospital.* To Judy Erb; January 6, 2004. (Transfer of pharmaceuticals at cost by a non-profit hospital to patients of non-profit free clinic under the Non-Profit Institutions Act)

2003  *Medical Group Management Association.* To Gerald Niederman; November 3, 2003. (Proposal by association of medical practice administrators relating to survey of


**Arkansas Children’s Hospital.** To Victoria Bennet; March 13, 2003. (Sale of pharmaceuticals under the Non-Profit Institutions Act by non-profit children’s hospital to patients seen in clinics that are operated by the University of Arkansas for Medical Sciences on the hospital’s campus) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-bennet-03-13-03).

**Valley Baptist Medical Center.** To Louise M. Joy; March 13, 2003. (Sale of pharmaceuticals by hospital to contracted workers who provide services at the hospital under the Non-Profit Institutions Act) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-bennet-03-13-03).

**PriMed Physicians.** To Gregory G. Binford; February 6, 2003. (Proposal by physicians in Dayton, Ohio, to collect and publish information about third party payers’ policies and procedures, including fees that specific health plans pay to Dayton doctors compared to fees they pay for the same procedures to physicians in other areas, in connection with the formation of an advocacy group to educate the public about issues affecting the Dayton health care market) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-binford-02-06-03).

2002 **Health Access, Inc.** To Stephen D. Keiss; March 8, 2002. (Sale of vaccines by non-profit hospital to affiliated wellness center under the Non-Profit Institutions Act) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-keiss-03-08-02).


**Harvard Vanguard Medical Associates, Inc.** To David Marx, Jr.; December 18, 2001. (Sale of pharmaceuticals by non-profit, multi-specialty medical clinic to employees and

1999  **BJC Health System.** To Gary Senner; November 9, 1999. (Sale of pharmaceuticals by non-profit hospital system to the system’s employees, affiliated managed care program enrollees, and home care subsidiary under the Non-Profit Institutions Act) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-senner-11-09-99).


1997  **Alliance of Independent Medical Services, LLC.** (To Timothy C. Cashmore; December 22, 1997. (Network of ambulance and ambulette services providers formed to contract for transportation services with third party payers) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-cashmore-12-22-97).

**Community Hospital, Inc.** To Darrell O. Fancher; December 22, 1997. (Corporate restructuring of nonprofit hospital corporation) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-fancher-12-22-97).

**New Jersey Pharmacists Association.** To Allen Nichol, Pharm. D.; August 12, 1997. (Pharmacist network offering health education and monitoring services to diabetes and


**Henry County Memorial Hospital.** To Clifton E. Johnson, Esq.; April 10, 1997. (Sale of pharmaceuticals by non-profit hospital to patients of the hospital’s PHO under the Non-Profit Institutions Act) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-johnson-04-10-97).


**Southwest Florida Oral Surgery Associates.** To Guy E. Whitesman; December 2, 1996. (Cooperative of oral and maxillofacial surgery practices formed to jointly market services to third party payers) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-whitesman-12-2-96).

**North Ottawa Community Hospital.** To Sheldon Klein, Esq.; October 22, 1996. (Sale of pharmaceuticals by non-profit hospital to unaffiliated, non-profit hospice under the Non-Profit Institutions Act) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-klein-10-22-96).


**North Mississippi Health Services.** To Bruce J. Toppin, Esq.; October 3, 1996. (Sale of pharmaceuticals by non-profit medical center to retired employees under the Non-Profit


Elmore Community Hospital, Inc. To Derrell O. Fancher; June 20, 1995. (Joint venture between two acute care hospitals for the purchase of certain personnel and other services) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-fancher-06-20-95).


Suffolk County Dental Society. To Steven L. Roberts, Albert A. Sunshine, DDS, Chairman, Ethics Committee; July 6, 1994. (Legality of "exclusive dental plans"; proposed dental society disciplinary action against dentists sponsoring such plans)


California Managed Imaging Medical Group, Inc. To J. Bert Morgan, Esq.; November 17, 1993. (Proposal by a radiologist-owned PPO network to provide professional radiology services to payers on a regional or statewide basis. The letter discusses fee-setting, market power, and limitation of provider panel) (https://www.ftc.gov/policy/advisory-opinions/advisory-opinion-morgan-11-17-93).


1992 Oneida City Hospital. To Linus W. Walton, Esq., City Attorney; June 1, 1992. (Sale of prescription drugs by a city-operated hospital to city employees at a price reflecting discounts received by the hospital under the Non-Profit Institutions Act) (https://www.ftc.gov/sites/default/files/documents/advisory-opinions/oneida-city-hospital/2.pdf).

**IPA sponsored PPO.** To Martin J. Thompson; June 20, 1991. (IPA network’s sponsorship of a PPO to negotiate prices with hospitals whose services will be marketed as part of the PPO) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/ipa-sponsored-ppo/4.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/ipa-sponsored-ppo/4.pdf)).


**Wichita Area Chamber of Commerce.** To F. Tim Witsman, President; May 22, 1991. (Collective allocation by hospitals of services, equipment, or facilities) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/wichita-area-chamber-commerce/7.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/wichita-area-chamber-commerce/7.pdf)).


**Maryland Medical Eye Associates.** To Charles E. Rosolio; May 15, 1987. (Formation, marketing, and operation of a partially integrated professional organization, owned by nine ophthalmologists who are in five separate medical practices, to offer services to HMOs and other groups on a capitation and fee schedule basis) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/maryland-medical-eye-associates/16.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/maryland-medical-eye-associates/16.pdf)).


**The Equitable Life Assurance Society.** To Jonathan E. Gaines, Esq., V.P. and Counsel; March 26, 1986. (Proposal by an insurer to enter into contracts with hospitals for DRG-based payment. The prices would apply to insurer's own business and would be available to self-funded plans that contract with the insurer for that service) ([https://www.ftc.gov/sites/default/files/documents/advisory-opinions/equitable-life-assurance-society/19.pdf](https://www.ftc.gov/sites/default/files/documents/advisory-opinions/equitable-life-assurance-society/19.pdf)).


**Passaic County Medical Society.** To William T. McGuire, Executive Director; January 3, 1986. (Professional society’s peer review of physicians' fees that is mandatory and

1985  


1984  


Peer Review Organizations of Ohio Foundation. To Larry D. Spencer, Executive Director; April 25, 1984. (Proposal by an association of nine Professional Standards Review Organizations to bid for contract with HHS to serve as a Peer Review
Organization for Ohio under the Medicare program)  

**Kitsap Physicians Service.** To William G. Kopit, Esq.; May 22, 1984, and March 26, 1984. (Proposal by physician-owned IPA/HMO with most of the local physicians as participants to close off access to plan to additional physicians)  

**HMO/IPA.** To Gilbert M. Frimet, Esq.; March 22, 1984. (Use by IPA of fee schedule to allocate capitation payment among participating physicians. The proposal would require exclusive dealing by IPA members with the IPA)  

**American Podiatry Association.** To Werner Strupp, Esq.; March 13, 1984. (Use of HCFA's Medicare fee profile by society as reference aid in reviewing reasonableness of disputed fees)  

**Medical Society of the County of Erie.** To James F. Phillips, M.D., President; March 12, 1984. (Medical society discussions with third-party payers regarding fee allowances)  

**North Carolina Chiropractic Association.** To Collin M. Haynie, D.C., Chairman, Ethics Committee; February 29, 1984. (Code of ethics provisions regarding advertising, prior approval of advertising, and fee discounts)  

1983  
**American Podiatry Association.** To Norman Klombers, DPM, Executive Director, and John Grad, Esq., General Counsel, Podiatry Society of Virginia; August 18, 1983. (Peer review of fees, utilization, and quality of care by professional society)  


**Health Care Management Associates, 101 F.T.C. 1014 (1983).** To Irwin S. Smith, M.D., President; June 7, 1983. (PPO organized by an independent intermediary between physicians and payers)  

