



Clinical Integration in Health Care: A Check-Up

May 29, 2008
FTC Conference Center
601 New Jersey Ave, NW
Washington, DC

Agenda

9:00 - 9:05 Welcoming Remarks

Kenneth W. Field, Counsel to the Director, Bureau of Competition,
Federal Trade Commission

9:05 - 9:20 Opening Remarks

Chairman William E. Kovacic, Federal Trade Commission

9:20 - 9:45 Background and Context for the Workshop

This session will review the antitrust agencies' activities with regard to clinical integration, from articulation of the concept in the 1996 *Statements of Antitrust Enforcement Policy in Health Care* to the present. Clinical integration has relevance for antitrust enforcers if competing providers agree to sell their services at collectively-determined prices. Although naked agreements to fix prices are per se illegal, if the joint pricing is reasonably necessary to an efficiency-enhancing integration among the providers, then its competitive effects are subject to a more searching inquiry under the rule of reason. The session will examine cases and advisory opinions raising clinical integration issues.

The discussion will also lay out the basic principles that guide the agencies' approach in matters that present clinical integration issues, including: encouraging innovation; avoiding statements that would tend to channel market developments into particular structures or approaches to health care delivery; applying traditional antitrust principles with careful attention to the special characteristics of health care markets; and staying within the agencies' area of expertise – antitrust, not medicine.

Markus H. Meier, Assistant Director, Health Care Services and
Products Division, Federal Trade Commission

9:45 - 10:45 Panel I: Federal Government Initiatives to Improve Health Care Delivery through Collaboration among Health Care Providers

This panel features speakers who will describe government initiatives to promote health care delivery through collaboration among health care providers that may be relevant to the concept of clinical integration and may have the potential for application beyond government programs. The session will include a discussion of, among other things, CMS's ongoing demonstration project, "The Physician Hospital Collaboration Demonstration," which is intended to determine if "gainsharing" arrangements in which hospitals reward physicians for savings achieved as a result of collaborative efforts to improve quality and reduce cost effectively align incentives of hospitals and physicians to improve the quality and efficiency of care.

Moderator: Richard A. Feinstein
Boies, Schiller & Flexner LLP

Panelists: Mark Wynn, Director, Division of Payment Policy
Demonstrations, Center for Medicare and Medicaid Services,
United States Department of Health and Human Services

Mark E. Miller, Executive Director, Medicare Payment Advisory
Commission

Thomas L. Garthwaite, M.D., Executive Vice President & Chief
Medical Officer, Catholic Health East

10:45- 11:00 Break

11:00- 12:15 Panel II: Private Initiatives to Improve Health Care Delivery through Collaboration among Health Care Providers

This panel will describe initiatives private parties are currently undertaking to improve health care delivery through collaboration among health care providers. Topics of discussion will include the kinds of collective activities that parties are pursuing, the goals the collective activities are designed to achieve, the infrastructure and investment required to achieve these goals, the obstacles the collaborations have faced, the mechanisms and incentives put in place to increase compliance, and the approach programs use to measure success. Panelists will also be asked to discuss how joint contracting with payers contributes to their program’s ability to accomplish its clinical goals, and whether “exclusivity” (that is, an agreement that participants contract exclusively through the group) is necessary for the program to be successful.

Moderator: Joshua H. Soven, Chief, Litigation I Section, Antitrust Division, United States Department of Justice

Panelists: Lee B. Sacks, M.D., President,
Advocate Physician Partners (Chicago, Illinois)

William D. Petasnick, President and CEO,
Froedtert & Community Health (Milwaukee, Wisconsin)

Eric T. Nielsen, M.D., Chief Medical Officer,
Greater Rochester Independent Practice Association
(Rochester, New York)

Elizabeth Wennar-Rosenberg, M.P.H., D.H.A., Chief Executive,
United Health Alliance (Bennington, Vermont)

Thomas H. Lee, M.D., Chief Executive,
Partners Community HealthCare (Boston, Massachusetts)

12:15 - 1:45 Lunch Break

1:45 - 2:45 Panel III: Payer Perspectives on Initiatives to Improve Health Care Delivery through Collaboration among Health Care Providers

This panel will discuss actual experiences that employers, health plans, and other purchasers have had working with health care providers offering programs to improve health care delivery through collaboration among the providers. Participants in this session will be asked to address, among other things, the extent to which provider collaborations that involve clinical, but not financial, integration meet the needs of employers, health plans, and consumers.

Moderator: David P. Wales, Jr., Deputy Director, Bureau of Competition, Federal Trade Commission

Panelists: Kenneth T. Bowden II, Senior Counsel, CIGNA

Gregory Goggans, Director of Benefit Design, Wal-Mart

Douglas W. Emery, Operations Manager, Prometheus Payment Inc.

2:45 - 3:00 Break

3:00 - 4:00 Panel IV: Health Care Services Research on Initiatives to Improve Health Care Delivery through Collaboration among Health Care Providers

This panel will review the existing empirical research concerning the manner and extent to which provider collaborations have succeeded or are likely to succeed in improving health care quality and containing costs. Questions the participants will be asked to address include what, if any, factors the empirical literature has identified that are essential to the success of such collaborations, what kinds of results can such collaborations reasonably be expected to achieve, and is there reason to believe that such collaborations among otherwise competing health care providers can actually help improve health care delivery?

Moderator: Jeffrey W. Brennan
Dechert LLP

Panelists: Herbert S. Wong, Ph.D., Center for Delivery, Organization and Markets, Agency for Healthcare Research and Quality (AHRQ).

Lawton R. Burns, M.B.A., Ph.D, James Joo-Jin Kim Professor, and Professor of Health Care Systems and Management, Center for Health Management and Economics, Wharton School of Business, University of Pennsylvania

Bruce E. Landon, M.D., M.B.A., M.Sc., Associate Professor of Health Care Policy, Harvard University School of Medicine, and Associate Professor of Medicine at the Beth Israel Deaconess Medical Center

4:00 - 4:15 Break

4:15 - 5:30 **Panel V: Wrap-Up Session**

This concluding panel will highlight the key take-aways of the day's sessions. Participants will be asked to describe the context and framework in which potential clinical integration initiatives are evaluated, including the current counseling and law enforcement environments, and to comment on the current and future initiatives discussed in prior sessions.

Moderator: David Narrow, Bureau of Competition,
Federal Trade Commission

Panelists: Robert F. Leibenluft
Hogan & Hartson

Toby G. Singer
Jones Day

John P. Marren
Hogan Marren

John J. Miles
Ober Kaler

Arthur N. Lerner
Crowell & Moring

5:30 **Closing Remarks**