



Health Plan Consolidation Talking Points

1. Health plan consolidation has led to an unlevelled playing field for family physicians when attempting to negotiate terms of a health plan contract.
2. Physicians are the least-consolidated component in the health care industry with most in practices with four or fewer physicians.ⁱ
3. Out of more than 400 mergers in the past 12 years, the DOJ has challenged only two.ⁱⁱ
4. Health plan consolidation has failed to lead to lower premiums, better health benefits, and adequate payment levels for primary care physician services.
5. Inadequate payment levels to primary care physician services may lead to limited access to primary care, thereby, decreasing the quality and affordability of care (e.g. increased inappropriate use of emergency and sub-specialty care services).

Recommendations

Update antitrust laws to provide physicians flexibility in joint arrangements that will lead to improvements in the quality of care and contain costs. Specifically, updates necessary are:ⁱⁱⁱ

1. More flexibility in physician clinical integration is necessary to actualize physician network efficiencies associated with implementing Health IT, collaborating on quality improvement activities, and participating in Pay-for-Performance programs.
2. Exclusive physician networks should be evaluated under the *rule of reason*. Absent proof of market power or actual anticompetitive effects, such networks should be found lawful.
3. Non-exclusive physician networks – those in which the physicians are genuinely available to contract with payers separately from the network – should almost always be found lawful under the rule of reason.

ⁱ See Kane, Carol K. *The Practice Arrangements of Physicians* (2005). American Medical Association.

ⁱⁱ Competition in Health Insurance: A comprehensive study of U.S. markets, American Medical Association (AMA) 2007 report, http://www.ama-assn.org/ama1/pub/upload/mm/368/compstudy_52006.pdf.

ⁱⁱⁱ Physician Networks and Antitrust: A Call for a More Flexible Enforcement Policy, American Medical Association with Sidley Austin LLP, Executive Summary, June 2008.