

Expect Focus on Antitrust Issues in the Health Care Industry

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There have been a number of high profile antitrust cases brought against health care providers, and the increasing interest of both the Federal Trade Commission (FTC) and plaintiffs should be considered in any proposed transaction or changes in business operations. Federal regulatory enforcement efforts have increased. For example, the FTC challenged St. Luke's Health System's acquisition of Saltzer Medical Group in Idaho. A federal district court recently held that the acquisition violated the Clayton Act and the Idaho Competition Act, and ordered St. Luke's to divest itself of certain assets. The FTC recently announced that it is hosting a public workshop on March 20-21, 2014, in Washington, D.C., to examine competition issues in the United States health care industry. The workshop will address five key topics including: 1) professional regulation of health care providers; 2) innovations in health care delivery; 3) advancements in health care technology; 4) measuring and assessing quality of health care; and 5) price transparency of health care services. The Commission will accept written comments on the workshop discussions through April 30, 2014; thus, it will likely continue to focus on the health care industry in 2014. **We expect plaintiffs to show an increasing interest in pursuing antitrust claims as well as state law claims based on allegations of economic credentialing and unfair trade practices.** Recent examples include the claims pursued by Steward Health Care System LLC against Blue Cross & Blue Shield of Rhode Island based on allegations that the insurer interfered with its potential acquisition of a hospital. Notably, the federal district court recently denied Blue Cross & Blue Shield's motion to dismiss and allowed the case to proceed.

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