



Model Legislation

RESOLUTION ON ANTITRUST EXEMPTION FOR PHYSICIAN CARTELS

Summary

This Resolution urges states to reject legislation that would exempt independent, competing health care professionals from antitrust laws and allow them to form cartels, and raises concern our Congress' misguided attempts to pass similar physician antitrust exemption legislation.

Model Resolution

WHEREAS, competition benefits consumers because it results in more products and services at lower prices and of higher quality, and

WHEREAS, under current antitrust law, independent physicians are able to form legitimate joint ventures and multi-provider networks in order to collectively negotiate or actively compete with health plans, and

WHEREAS, exempting physicians from existing antitrust laws could result in such anti-competitive behavior by physicians as price-fixing, boycotts or other refusals to deal that are currently unlawful, and

WHEREAS, a physician antitrust exemption would authorize anti-competitive joint conduct by physicians that could seriously harm consumers and undermine efforts to promote high quality care and greater choice of products and services, and

WHEREAS, the US Department of Justice has found that "when health care professionals jointly negotiate with health insurers, without regard to antitrust laws, they typically seek to significantly increase their fees, sometimes by as much as 20-40%", and

WHEREAS, higher health care costs resulting from such an exemption will be shouldered by employers and consumers and will threaten to increase the number of uninsured and reduce access to care, and

WHEREAS, the Federal Trade Commission, the US Department of Justice and the Consumer Federation of America explicitly oppose a physician antitrust exemption for its potential harm to consumer welfare, and

WHEREAS, health plans already have a variety of mechanisms in place to allow a physician to discuss concerns about actions taken by the plan, and to contribute to efforts to improve efficiency and quality of care, and

WHEREAS, a physician antitrust exemption would give health care providers special treatment available to no other workers in the health care arena.

NOW THEREFORE BE IT RESOLVED, that the legislature of the state of [insert state] rejects any proposal to exempt independent health care professionals from antitrust laws that could permit them to collude, form cartels, price fix and engage in other collective activity that would otherwise be illegal, and also urges Congress not to enact legislation that provides for a similar physician antitrust exemption.

BE IT FURTHER RESOLVED, that copies of this resolution will be distributed to all Governors and members of the U.S. Senate and the U.S. House of Representatives.