



Department of Justice

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JUSTICE DEPARTMENT ISSUES BUSINESS REVIEW LETTER

WASHINGTON, D.C. -- The Department of Justice announced today that it does not intend to challenge under the antitrust laws a proposal by Transplant Associates, a Texas professional association, to contract with third-party firms to assemble a data base of its member physicians' charges for kidney and liver transplants.

The Department's position was set forth in a business review letter from Charles A. James, Acting Assistant Attorney General in charge of the Antitrust Division, to William R. Creasey, counsel for Transplant Associates.

Transplant Associates is a provider-based preferred provider organization of approximately 85 physicians representing numerous medical specialties who work in teams to perform kidney and liver transplants at Baylor University Medical Center in Dallas, Texas.

Transplant Associates proposed to contract with outside accounting and research firms to gather and evaluate data from its member physicians, then provide Transplant Associates with a statistical analysis of average charges. Transplant Associates would use the analysis to evaluate fixed-fee contract proposals of third-party payers. Neither Transplant Associates nor its

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members would have access to individual physician fee information.

Although a comprehensive exchange of information about prices sometimes can facilitate collusion among sellers, James said the safeguards Transplant Associates will employ to prevent the disclosure of individual fees to its members or other physicians minimize that risk.

Moreover, there appears to be a procompetitive justification for the project. Because Transplant Associates will have the relevant cost data to facilitate its review of fixed-fee contract proposals of third-party payers, Transplant Associates and its members will likely enter into more fixed-fee arrangements than they are able to do presently. Such arrangements will ultimately reduce the cost of liver and kidney transplant procedures performed by Transplant Associates' member physicians, and help to reduce the cost of health care.

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of The Antitrust Division, Room 3233, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the

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documents supporting the business review will be added to the file.

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