



August 30, 2007

Joseph Miller
Acting Chief, Litigation I Section
Antitrust Division
United States Department of Justice
1401 H Street, N.W. Suite 4000
Washington, D.C. 20530

Dear Sir:

The purpose of this letter is to comment on the Impact Statement and Consent Decree pending from the Department of Justice toward the Federation of Physicians and Dentists (Federation) and its effects on the Cincinnati OB-GYNS that employ their services.

I believe the Utah State Orthopedic Society (USOS) has a germane example in regard to the appropriate use of the Federation and the "messenger model". While the use of the "messenger model" in the state of Utah among Orthopedist has an approximate 8 - 9 year history its presence in Utah became more formal 5 years ago when the Federation of Physicians and Dentist helped the USOS organize itself into a functioning society that supplies meaningful information and education to it members, via a representing Board of Councilors and an annual educational conference.

The history the USOS has had with the Federation of Physicians and Dentists has been nothing but professional and extremely cognizant of the legal operating parameters of the "messenger model". The USOS from the beginning was counseled and has operated under the clear understanding from the Federation that the "messenger model" is intended only to provide efficiencies in the contracting process by allowing representation from a "messenger" dedicated to such activities rather than a physician trying to practice medicine and trying to negotiate such contracts simultaneously. While a "messenger" may legally represent several competing orthopedists or their practices it is clear that the "messenger" can never negotiate or represent physicians collectively; all of the negotiations must be kept confidential on an individual decision-making level. The Federation has always operated in Utah in this fashion.

The USOS has always viewed our relationship with the Federation as educational and informational in nature but never as a tool to increase leverage or position in the Utah market. As a physician, my ability to balance a busy patient schedule and become an expert in insurance terms, conditions and contract language is extremely limited. Speaking as an individual practitioner I can only do so many things in a single day. I admittedly am disadvantaged when it comes to my negotiations with the insurance industry experts but

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Page 2

through the proper use of the "messenger model" have become at least somewhat more educated in making rational decisions for my practice. I believe this education has had the effect of making the physician and insurance markets in the state of Utah more competitive, not less.

From our experience in Utah I can only presume that the activities in Cincinnati have been handled in a similar fashion by the Federation. I hope the use of the "messenger model" through out the country is managed legally by those that employ it. I also hope that where the "messenger model" is being used appropriately that it will be protected by the Department of Justice for the benefit of physicians and patients that realize such an important benefit from it.

From a Utah perspective I would judge that monopoly power is not held with the physicians but rather with the insurers and one system in particular. We trust that the Department of Justice is carefully monitoring this side of the medical industry and the powerful, potentially controlling, organizations that exist in it as well.

I hope you find this information helpful, thank you for your consideration.

Respectfully


Vernon J. Cooley, M.D.
President, Utah State Orthopedic Society



Mark Wankier
Executive Director, Utah State Orthopedic Society