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February 14, 1994

Honorable Anne K. Bingaman  
Assistant Attorney General  
Department of Justice  
Antitrust Division  
10th Street and Constitution Avenue, N.W.  
Washington, DC 20530

Re: Merger of Pulmonary Associates, Ltd. and Albuquerque Pulmonary  
Consultants, P.A. - Request for Business Review

Dear Ms. Bingaman

Pulmonary Associates, Ltd. ("Associates") respectfully request that the Anti-Trust Division of the United States Department of Justice, pursuant to the provisions of 28 C.F.R. § 50.6, review and state its present enforcement intentions with respect to a proposed merger of Associates and Albuquerque Pulmonary Consultants, P.A. ("Consultants"). Associates is a New Mexico professional corporation that employs five (5) pulmonary specialists, four (4) full time and one (1) part-time. Consultants is a New Mexico professional corporation that employs five (5) pulmonary specialists, four (4) full time and one (1) part-time. Associates and Consultants draw their patients from Eastern Arizona, Southern Colorado, West Texas, although predominantly from New Mexico. There is a total of thirty-six (36) pulmonary specialists in New Mexico. Twenty-seven (27) of these practice in Albuquerque: Associates and Consultants combined (9), University of New Mexico Medical Center (7), Lovelace Medical Center (5), Veteran's Administration (4), FHP (1), and Karl Kupferer, D.O. Nine pulmonary specialists practice around the state in all of the major towns.

There are twenty-three (23) allergists in New Mexico (11 in Albuquerque), who also see patients with asthma and there are thirty-six (36) oncologists in New Mexico (9 in Albuquerque) who specialize in lung cancer. There are three hundred eighty-nine (389) family practice physicians, one hundred ninety-four (194) general practice physicians, and four hundred seventy-one (471) internal medicine physicians in New Mexico. The family practice, general practice, and internal medicine physicians ("primary care physicians") see patients with chronic obstructive pulmonary disease

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("COPD") and pneumonia. New Mexico is a sparsely populated state. One-third of the state's population lives in the greater Albuquerque area and therefore many individuals throughout the state come to Albuquerque for their medical care. Santa Fe is the only major city that is less than one hundred twenty-five (125) miles from Albuquerque and most are two hundred (200) or more, Exhibit A. Thus, the practice of Associates and Consultants is a state wide practice. In addition, many members of the Navajo Tribe travel to Gallup or Farmington for medical care and are then referred to Albuquerque as in the case of patients in Southern Colorado that go to Farmington for their medical care. Patients from West Texas that are seen in Hobbs and Clovis may be referred into Albuquerque.

Furthermore, New Mexico is one of the most HMO-saturated states and many less serious pulmonary patients are seen solely by their primary care physician. Specifically within the Albuquerque community, there appears to be a robust competition from other physicians for treatment of pulmonary diseases, and most of the diagnoses seen by Associates and Consultants are also seen by other physicians, indicating that Associates and Consultants do not have a high market share of the patients with the diseases that they treat. Enclosed are Exhibits B and C listing the most frequent diagnoses for Associates and Consultants respectively.

Associates and Consultants both admit patients and consult at Presbyterian Health Care Center and St. Joseph Hospital. These hospitals function as tertiary referral centers and as such, admit patients from the entire State of New Mexico, as well as Eastern Arizona, Southern Colorado, and West Texas.

Four of the fifteen most frequent diagnoses represent 61.5% of the practice of Associates and 60% of the practice of Consultants:

<u>Diagnosis</u>	<u>Associates</u>	<u>Consultants</u>
Chronic obstructive pulmonary disease	33.5%	26.0%
Asthma	18.0%	22.0%
Pneumonia	7.0%	10.0%
Cancer-lung	<u>3.0%</u>	<u>2.0%</u>
Total	61.5%	60.0%

As shown in the schedule below, Associates and Consultants represent less than twenty percent (20%) of the number of physicians in New Mexico that treat patients with the four diagnoses that represent sixty percent (60%) of their practice.

	<u>COPD/Pneumonia</u>	<u>Asthma</u>	<u>Lung Cancer</u>
Associates	4.5	4.5	4.5
Consultants	4.5	4.5	4.5
Other NM			
Pulmonologists	27.0	27.0	27.0
Allergist	-	23.0	-
Oncologist	-	-	36.0
Family/G.P			
Internist	<u>1,054.0</u>	—	—
Total	1,090.0	59.0	72.0

Associates & Consultants as Percentage of Drs. treating diagnosis	.83%	15.25%	12.50%
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There are also a number of primary procedures that are done by pulmonary specialists that are also done by other physicians:

1. Swan Ganz Catheters: In general, cardiologists do many more Swan Ganz catheterization than pulmonary specialists. There are more than 30 cardiologists that do Swan Ganz catheterizations. Vascular and thoracic surgeons and anesthesiologists also place Swan Ganz Catheters.
2. Fiberoptic Bronchoscopy: Fiberoptic bronchoscopies are performed by at least 10 thoracic surgeons in Albuquerque.
3. Chest Tubes: Chest tube placement is a procedure that can and is done by any chest surgeon or general surgeon in the community.
4. Ventilators: Associates and Consultants manage the majority of ventilators in the Intensive Care Unit. The cardiovascular/thoracic surgeons manage ventilators in the Intensive Recovery Room and anesthesiologists also manage ventilators. In addition, while they do manage ventilators often, cardiologists and several vascular and general surgeons in the community have training and ability to do this and are credentialed to do this for limited time periods.

Honorable Anne K. Bingaman

February 14, 1994

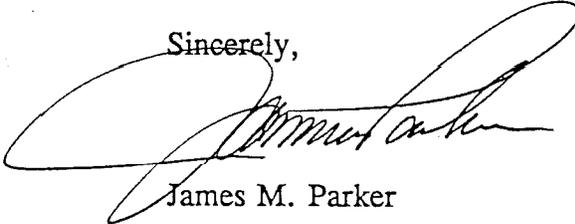
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5. Hyperbaric Oxygen: This is a procedure that is relatively unique to pulmonary specialists is hyperbaric oxygen. There are only three (3) other physicians in the community who are trained in this procedure; however, Associates and Consultants together only do this procedure in maybe fifty (50) times per year. This is obviously a very small part of the practice of Associates and Consultants.

The other 40% of the practices of Associates and Consultants consist of cough, acute bronchitis, pulmonary fibrosis, pleural effusion, tuberculosis, and sinusitis. Again, many of these diseases are treated by primary care physicians.

If you should require any additional information or documentation regarding Associates and/or Consultants and the proposed merger of Associates and Consultants, please call me.

Sincerely,



James M. Parker

JMP/dlh/224446

Enclosures

c: Pulmonary Associates, Ltd.  
Albuquerque Pulmonary Consultants, P.A.